

UNCLE SAM AND THE MOVIES

CONGRESSIONAL DIGEST

WASHINGTON D.C.



NOVEMBER 1928

Uncle Sam and the Movies

How the Industry is Conducted
What the Brookhart Bill Provides
What the Hudson Bill Provides

Articles by

Hon. Smith W. Brookhart, U. S. Senator
Hon. Grant M. Hudson, U. S. Representative
Will. H. Hays, Head of Producers and Distributors
J. C. North, Department of Commerce

Pro and Con
Should Block Booking be Abolished?
Is Arbitration Plan Effective?

Regular Departments

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The Congressional Digest

November, 1928

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Uncle Sam and the Movies

A Brief History of the Movies

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A Brief History of the Movies

1558—Giovanni Battista della Porta described camera obscura.

1823—Nicephore Niepce made permanent pictures of action by light bitumen.

1833—W. G. Horner devised the Zeotrope or Wheel of Life.

1839—January 1. Daguerre in France and Fox Talbot in England announced photographic processes.

1840—Sir John Herschel introduced glass plate negatives.

1840—Professor John W. Draper of the University of the City of New York made first photographic portrait in America.

1847—Schonbein and Bottcher, Swiss chemists, made cellulose nitrate, now used for photographic film.

1850—Frederick Scott-Archer used collodion emulsion.

Dry Plate Process Invented

1855—Dry plate process invented.

1860—Sir John Herschel suggested possibility of motion pictures on the principle of the thaumatrope toy.

1861, on February 5—Coleman Sellers patented the Kinetoscope.

1862—Czermak of Vienna photographed the vocal chords in action, but was unable to record the actual sound vibration.

1869—Ducos du Hauron and Charles Cros pointed out possibility of color photography.

1871—Dr. R. L. Maddox prepared gelatin emulsion.

1872—Edward Muybridge photographed running horses by a battery of twenty-four cameras.

1878—Professor Blake of Brown University, photographed the vibrations of a microphone diaphragm by means of a mirror, which reflected a beam of light on a photographic plate.

Stripping Film Invented

1884—Stripping film patented by Eastman Company.

1887—Dr. E. J. Marey of French Academy made motion pictures with single lens on celluloid film.

1888—Kodak box camera taking round pictures of 2½ inches in diameter marketed.

1889—First pocket Kodak invented.

1891—Gabriel Lippman showed in Paris color photographs by wave interference.

1892—Demeny's "Chronophotophone," shown in Paris, was the first real talking picture. It consisted of a series of lantern slides for projecting the picture on the screen, combined with a lantern and cylinder phonograph and mechanism.

1893—L. H. Baekeland invented Velox daylight printing paper.

1893—Thomas A. Edison patented Kinetoscope.

1894—Alexander Black produced first photoplay by blending separate photographs in succession.

1894—Thomas Edison invented the Kinetoscope. The pictures were synchronized with phonograph records, the listener using ear tubes.

1894, on April 14—Kinetoscope parlor opened at 1155 Broadway, New York. Here were motion pictures in peep show.

First Prize Fight Movie

1894, in July—The first prize-fight picture staged and picturized at Black Maria by Edison in West Orange. The fighters were Michael Leonard and Jack Cushing.

1895—C. Francis Jenkins gave public demonstration of Phantoscope, projecting life-size motion pictures from film.

1895—Roentgen discovered X-ray photography.

1895—Joseph Jefferson posed for the Mutoscope camera at Buzzard's Bay, in a series of brief snatches of his celebrated role in "Rip Van Winkle."

1896, on April 27—Thomas A. Edison's Vitascope, at Koster and Bial's Music Hall, at Broadway and 34th Street, New York, the first showing of a motion picture in America. The program included a bit of the finale of Charles H. Hoyt's "Milkwhite Flag," part of a prize-fight, several dancing girls, and the surf at Dover, England.

1897—Professor Joly of Dublin used lines ruled on plate in red, green and blue.

1897—Frederick Ives of Philadelphia invented the Stereophotochromoscope.

Whitman's Cameraphone

1904—Whitman's Cameraphone made use of the phonographic disc record, and met with considerable favor at the time.

1905—Duetsche's Vitascope was a disc device for synchronizing with pictures. He did not meet with much commercial success.

1906—Lauste invented the Photocinematophone, what is said to be the first time that the voice and the music were photographed simultaneously on the same sensitized negative.

1909—July 7 was the release date of Mary Pickford's first picture, "The Violin Maker of Cremona"; Biograph, New York, made under direction of David W. Griffith.

1910—Thomas A. Edison made use of a device consisting of a phonograph in an effort to secure sound effects with pictures.

1911—Coronation of King George V shown in the Kinetacolor of Charles Urban and George A. Smith.

The Gaumont Color Pictures

1912—Leon Gaumont in Paris projected motion pictures in three colors with three lenses.

1914—On March 10 at the Liberty Theatre, New York, D. W. Griffith presented "The Birth of a Nation," the first feature picture to play at two dollars in New York.

1921, in May—David W. Griffith's "Dream Street," with

music on Victor records and reproduced on Victor Phonograph, was shown at Town Hall, New York.

1922—On March 11, the incorporation of Motion Picture Producers and Distributors of America, Inc., was effected, with Will H. Hays as president. The object for which the Association was created was to foster the common interests of those engaged in the motion picture industry in the United States by establishing and maintaining the highest possible moral and artistic standards in motion picture production, by developing the educational as well as the entertainment value and the general usefulness of the motion picture.

Boards of Trade Organized

1922—First Film Boards of Trade in thirty-two key cities were organized for the purpose of representing film distributors.

1922—Boards of Arbitration, consisting of representatives of distributors and exhibitors, were established for the purpose of administering arbitration of commercial disputes within the motion picture industry.

1923—Camera and projector for amateur motion pictures produced by Eastman Kodak Company.

1923—De Forest's Phonofilm marked the beginning of the present vogue of sound pictures.

The First Technicolor Picture

1924—On June 24 members of Motion Picture Producers and Distributors of America adopted a resolution to avoid the picturization of books and plays which can be produced only after such changes as would leave the producer subject to a charge of deception, to avoid using titles which are indicative of a kind of picture which could not be produced, or by their suggestiveness seek to obtain attendance by deception, and to prevent misleading, salacious or dishonest advertising.

1924—On November 25 the first Technicolor picture, "Toll of the Sea," was shown.

1926—On August 5 Warner Brothers Theatre, New York, showed Vitaphone prologue in connection with picture "Don Juan." On this occasion, first words spoken from the screen through this medium were an address by Will H. Hays, president, Motion Picture Producers and Distributors of America, Inc., introducing Vitaphone to the world.

1927—The first Fox Movietone subject was a group of songs by Raquel Meller. This was exhibited for the first time as a demonstration of Movietone possibilities at an invitation showing in conjunction with the premiere of "What Price Glory" on January 21, 1927, at the Sam H. Harris Theatre, New York.

"Seventh Heaven" Synchronized

1927—On May 25, at the Sam H. Harris Theatre, New York City, "Seventh Heaven" was opened with the first all-Movietone surrounding program. The feature film was not at that time synchronized. The auxiliary program consisted of the Raquel Meller subject previously shown as an experiment; the first short comedy, "They're Coming to Get Me," with Chic Sale; Lindbergh's take-off for the New York to Paris flight; a Ben Bernie program of music; songs by Gertrude Lawrence and the first outdoor Movietone subject, West Point Cadets drill.

1927, on September 10—"Seventh Heaven," Movietone synchronized version shown at the Roxy Theatre.

1927, on September 23—"Sunrise" with Movietone synchronization opened at Times Square Theatre. A feature of this program was a speech by Mussolini; also the singing of the Vatican Choir.

1927, on October 6—"The Jazz Singer," with Al Jolson (Vitaphone), opened at Warner Brothers Theatre, New York. It was the first full length picture with musical and talking sequences.

Trade Practices Conference Held

1927, October 10 to 15—First Trade Practices Conference held in New York under auspices of Federal Trade Commission.

1927, October 28—The first all-Movietone newsreel was shown at the Roxy Theatre and consisted of the following subjects: Niagara Falls, Romance of the Iron Horse, Yale Bowl Festivities (Yale-Army football game), West Comes East; Rodeo Performers.

1927, on December 3—First weekly issue of Movietone News.

1927, on December 15—The Authors' League of Amer-

ica, including the Authors' Guild and the Dramatists' Guild, joined with the Motion Picture Producers and Distributors of America, Inc., in the formula respecting the picturization of certain books and plays.

1928, on June 25—First all-dialogue comedy in two reels, "The Family Picnic," shown at the Globe Theatre in conjunction with "The Red Dance," synchronized feature.

1928, on July 6—Warner Brothers Vitaphone picture "Lights of New York," the first all-talking picture, at the Strand Theatre, New York.

1928—Color motion pictures for amateurs demonstrated by Eastman Kodak Company.

1928, on September 1—First Movietone feature with dialogue, "The Air Circus," at the Gaiety Theatre, New York.

1928, on September 19—First complete singing and talking Vitaphone motion picture, showing Al Jolson in "The Singing Fool" at the New York Winter Garden.

Government-Made Motion Pictures

Several of the Government Departments have regular film departments for the manufacture and exhibition of motion pictures. Among those of importance are the following:

War Department—The motion picture section of the Army makes pictures and cooperates with outside film companies in the making of motion pictures showing all phases of the work of the Army. It also makes airplane pictures of air routes.

Navy Department—The Navy's motion picture section is similar to that of the Army and covers the work of the Navy and the Marine Corps afloat and ashore.

Interior Department—The bureau of mines makes and exhibits pictures of mining operations with particular attention to pictures showing safety devices and methods.

Department of Agriculture—The motion picture section of this department makes and distributes through county agents and farm organizations many films showing various developments and improvements in farm work, forestry, etc.

Department of Labor—The Children's Bureau makes and distributes motion pictures on child care and welfare.

The Shipping Board—The board makes and displays throughout the country motion pictures of the passenger and cargo fleets of the Merchant Ship Corporation.

The Motion Picture Section of the Department of Commerce



ON July 1, 1926, a Motion Picture Section was established in the Bureau of Foreign and Domestic Commerce by a \$15,000 appropriation from Congress. The chief reason which prompted the creation of this Section just at this time lay in a recognition of the size of the motion picture industry among our other industries and particularly of its importance in the field of foreign trade.

The personnel of the Section is limited to four people, which includes stenographic assistance, this number now being entirely inadequate to care for the increased demands made upon it as its work becomes better and more favorably known. As an instance of this, whereas, in the fiscal year 1926-27 there were approximately 3,000 requests made for its services this number increased during the fiscal year 1927-28 to nearly 6000. No corresponding addition in personnel has yet been made to meet this tremendous increase in work.

The Motion Picture Section's Work

The work of the Motion Picture Section lies chiefly along the following lines:

1. Reporting on all phases of film conditions abroad, both with regard to the maintenance and development of American trade in motion pictures. Such reports are received through 60 foreign offices of the Department of Commerce, located in the leading commercial centers of the world with the co-operation also of more than 300 consuls of the Department of State. Besides the 60 foreign offices of the Bureau there is also maintained in this country 29 District offices and 39 Co-operative offices thus making a total of 128 branch offices of this Bureau to serve the wishes of American exporters.

With particular regard to Europe a motion picture Trade Commissioner is maintained with headquarters in Paris who makes special surveys of the European market and he of course is the cornerstone of the reporting service. In this he receives the hearty co-operation of those in charge of the Department's European offices, all such material being made available to the industry by the section in Washington. Special circulars or bulletins are made public from time to time by the section covering particular topics of interest. Recent Trade Information Bulletins issued are:

Trade Information Bulletins

"The Chinese Motion Picture Market," "Market for Motion Pictures in Central Europe, Spain and Italy," "Markets for Industrial and Educational Motion Pictures Abroad," "Short Subjects Film Market of Europe," "The European Film Industry in 1927." During the course of the next year no fewer than 14 of such bulletins will probably be issued covering most of the major markets of the world. Such material is of course part of the permanent files of the department and is used by the Motion Picture Section as the basis of answering the many individual requests for information on the foreign field which are received by correspondence, telephone or personal interview. The Motion Picture Section since its existence has answered nearly 10,000 of these.

Complete Statistical Data

2. As full and accurate statistical data as is possible covering our exports and imports and foreign production of films are given to the trade each month. In this connection, through the co-operation of the Commercial Intelligence division of the department, lists of motion picture theaters with seating capacity, prices of admission and number of performances each week in every foreign country are furnished to inquirers on request and under certain conditions. Lists of motion picture producers, distributors and dealers are also available.

3. A weekly service has been inaugurated by which stories, news items and trade notes of interest and value are given out each week to the trade press.

4. Tariff information. Through the co-operation of the Division of Foreign Tariffs, the American motion picture industry is always advised of any tariff changes, the imposition of special restrictions or other similar legislation covering motion pictures.

Reducing Film Piracy Abroad

5. Film piracy has flourished in certain sections of the world, notably Central America and the Near East—stolen and duplicated prints of American motion pictures are unlawfully exhibited with consequent losses in revenue to the authorized agents of American producers. Through department representatives in those localities and the aid of the Division of Commercial Laws of the department and the Motion Picture Section representation has been made which in some cases has stopped such unlawful exhibitions.

6. The Motion Picture Section is frequently called upon to furnish sources for distribution of industrial and educational motion pictures in foreign countries also to suggest ways and means as to how and in what manner they should be shown. While the educational and industrial film falls into an entirely different category from the entertainment film it is interesting to know that a large percentage of all the inquiries now received are from those interested in furthering American trade or education.

Motion Picture Accessories

7. A trade of growing importance lies in our foreign business in motion picture accessories. These cover motion picture projectors, cameras, screens, laboratory equipment and the like. The Motion Picture Section is expected to supply information on all foreign markets for these, together with such other data as may aid in developing American overseas trade in theater equipment. Recently the section issued a bulletin entitled "Foreign Market Possibilities for the Motion Picture Projectors" and the number of inquiries resulting from its publication illustrates the interest of manufacturers of these lines in overseas trade.

The Motion Picture Section maintains the closest contact with recognized organizations and the trade press devoted to fostering the development of the motion picture industry. It endeavors to serve all alike in every legitimate way and will guarantee the closest possible attention to every bona fide request for information and will supply all the information it can.

Our Foreign Trade in Motion Pictures

Producers Problems Abroad—European Markets—Demands of Latin America—Far Eastern Consumption

Contingent Systems—Foreign Film Legislation

By J. C. North

Chief, Motion Picture Section, Bureau of Foreign and Domestic Commerce



O single phase of the American motion picture industry is more important than its foreign trade. Of all the major industries in this country the film industry depends on foreign markets for its profits probably more than any other. Over 30 per cent of the gross revenues from all sources on American films come from outside the United States and in the case of certain individual companies this percentage total runs even higher. In other words, if for any reason the returns from abroad were eliminated or even seriously curtailed, it would place the film business and its allied trades in a rather unfortunate position.

American Ideas and Ideals

Another reason why the foreign field assumes a rather spectacular importance right now lies in the nature of motion pictures themselves. To enlarge on this rather cryptic statement, the film, besides being a profit-making commodity, has certain particular effects which no other profit making commodity has. It helps to sell those many other lines of goods from gowns to automobiles which form part of the setting of nearly every "movie" scene and which are seen and admired by the millions who see these on the screen. The slogan "trade follows the film" has attained a very practical significance in the eyes of our competitors. And then, too, the film sells ideas and ideals. Without any thought of conscious propaganda, our motion picture producers have, according to official opinion in many foreign countries, occupied an average of nearly 75 per cent of the screen time of the world in showing how Americans live and what their reactions are to that environment in which they live, with the result that these American ways of living are in many cases beginning to displace the customs and traditions of the countries where American pictures are shown in greatest quantity. In consequence agitation against American films on these grounds has been carried on for some time in many quarters abroad—notably in Europe. And this, in turn, has brought about legislation in several countries designed to cut down the showings of American films in favor of those of domestic origin. In other words, the foreign governments have felt that an instrument of such potentialities as the film must be represented by a local industry strong enough to compete with the foreign product. Legislation of this character has already been sufficiently drastic and widespread to constitute a barrier to the continued development of American foreign trade in films and as such is worthy of the most serious consideration.

Extent of the Overseas Film Trade

Before going into this phase of the situation further however, it is essential, in order to gain a proper perspective, to give a brief statistical picture of the extent and division of our overseas trade in motion picture films.

First, an average of about seventy-five per cent of the motion pictures shown day in and day out the world over are

of American origin. What the gross revenues to the industry are from such showings it is difficult to estimate but that it runs far up into the millions is accepted by all competent authorities.

So far as quantity figures go, for the year 1927 over 230,000,000 feet of finished motion pictures were sent abroad which total will probably be slightly less in 1928. In comparison with this in 1913—the last pre-war year—our total exports of this product stood at about 32,000,000 feet. Ten years later this had expanded to about 146,000,000 feet, for 1924, to just over 178,000,000 feet, and for 1927, to the totals just given above.

Europe Our Best Foreign Customer

Europe has always been our best customer for motion pictures and will probably hold this position for some time to come. Thus in 1913 she took about 17,000,000 feet or a little over fifty per cent of our total exports for that year which figure was increased to nearly 35,000,000 feet in 1923 and about 70,000,000 feet in 1927. Figures for the first six months of 1928 indicate that the figure for this year will be in the neighborhood of 72,000,000 feet. However, both Latin America and the Far East have shown a much more phenomenal growth proportionately than Europe, when it is noted that exports of films to the former rose from 1,500,000 feet in 1913 to over 80,000,000 feet in 1927 and probably nearly 90,000,000 feet in 1928 and the latter from about 4,500,000 feet for 1913—nearly all of which went to Australia and New Zealand—to nearly 60,000,000 feet in 1927 which figure will be about maintained for this year. It may be added that Africa, which was virtually non-existent as a motion picture market before the war, has since become a good customer. Her takings in 1927 centered chiefly in the Union of South Africa and Egypt, reaching something over 5,000,000 feet.

Latin American Consumption

While as may be seen that Latin America imported a greater footage of films from the United States than any other region of the world, it is Europe nevertheless, which supplies by far the bulk of our foreign revenues. It has been roughly estimated that somewhere around 65 per cent of our total royalties from abroad come from the various countries of Europe. Taken in order the British Isles contribute at least 50 per cent of the whole European total and form by far our most lucrative market. Germany stands second but far below England. France is generally reckoned next, not so much, however, on account of revenues received from this country but because of the importance of Paris as an exhibiting center. It is pretty difficult to place a correct estimate on the other European markets in the order of their importance but the probable order would be Sweden, Italy, Norway, Denmark, and so on down to Turkey which undoubtedly stands lowest. These figures are based of course on the year 1927.

In these countries the total number of American features shown last year varied from 723 in the British Isles to about 140 in Turkey. The average for each country is not far from 300 and with few exceptions these represent a majority of all the features exhibited. In other words, the share of the United States in the European film markets reaches an average of as high as 75 per cent and in certain territories such as Spain and Portugal, Belgium and the Netherlands runs up as high as 90 per cent.

England, Germany and France

An interesting reflection of the position of American films in Europe lies in a brief consideration of the share which motion pictures from this country hold in the three major European markets.

In Great Britain, according to George R. Canty, our Motion Picture Trade Commissioner in Europe, while 723 American features were distributed during 1927 as compared with 620 during the previous year or an increase of about 16 per cent, the American share of the market declined from a little over 83 per cent in 1926 to 81 per cent last year, when the increased American supply of films failed to keep pace with improved consumption. Now for the first six months of 1928, 286 out of 365 pictures shown were American, an average of about 78 per cent.

The German Market Steady

As regards the German market, American features censored there during 1927 according to official returns totaled 192, a drop of 37 films from the 229 total of 1926, or a little more than 16 per cent. The American share of the German market declined similarly from 44 per cent in 1926 to 36 per cent in 1927. A little better showing has been made, however, during the first half of 1928, as out of 299 films censored in Germany during this period 140 were from the United States giving this country 46 per cent of the market.

In France the American film declined in quantitative supply, as well, and in 1927 the 368 total of American features represented a decrease of 76 films under the total of 444 for the previous year, or 17 per cent. The American share of the French market thus was 78 per cent in 1926 and 63 per cent in 1927. This average is being closely maintained so far in 1928.

Competition From European Films

Just as Europe is our largest money market, so what measure of competition exists against American films also comes from Europe. The big three of European film production are of course Germany, France, and England. Of these Germany brought out 241 feature films in 1927, over 50 more, it should be noted, than were imported from the United States. France stands second, with, however, only 74 features to its credit, while England turned out 44. Of the other European countries Poland produced 17 features, Austria 16, Czechoslovakia 11, Sweden 10, Denmark 6 and Italy 5.

It can be seen from this that Germany produced more films than all the other countries put together and stands by all odds as our most serious rival in the European field. Furthermore, so far during 1928 her film production has slightly increased over that of 1927, while that of both France and England—partly at least as an effect of film legislation enacted during the year—has been considerably increased. England indeed has so far this year actually finished production on about 69 features with enough more to come to bring her production up to over 100 films for the year.

At this point, I should like to state emphatically that while it is true that only a very few of the more than 400 features

produced in Europe in 1927 and so far this year have been or will be shown in the United States, it is distinctly not true that these are discriminated against on the grounds of nationality.

Foreign Made Films in America

Any American distributor would be glad to show as many foreign pictures as he could get, provided he could make money on them. Unfortunately, so far the few pictures from overseas which have been exhibited in the United States have with rare exceptions been financial failures, which, incidentally, is no criticism of their artistic merit. However, there are now signs that pictures from England, France and Germany will be seen in increasing numbers on our screens—all of which the trade considers will be a very good thing as attesting in greater degree to the international character of the film business.

The European exhibition field is far behind that in the United States. While Europe is credited with having about 21,000 theaters or over a thousand more than in the United States, only a few of these come up to the quality level of the average neighborhood house in this country. In the capitals and large commercial centers of such countries as England, France, Germany and the Scandinavian countries, there are theaters which set a standard of excellence quite on a par with our best theaters here. But their numbers are small and outside of the localities mentioned above they scarcely exist at all.

Census of European Film Theatres

Germany leads all European countries with about 4,300 theatres. The United Kingdom comes next with 3,800 while France with 3,300 stands third and Italy with 2,200 fourth. Of other countries Sweden and Czechoslovakia each have in the neighborhood of 1000, Austria has about 800 and so on down to Lithuania with less than 50. It is interesting to note that in 1927, 733 new or renovated theatres were added to Europe's total bringing an increase of nearly 400,000 seats. Figures for 1928 are of course not yet available.

I now want to refer for a moment or two to the question of film legislation, for, as I said previously, this subject forms a special chapter in our film relations with Europe. The reasons why legislation of this character has been put into force have already been referred to; it remains to be seen what countries have actually passed decrees against foreign films and what the character of those decrees are.

Foreign Film Legislation

Germany was the first country to adopt measures against foreign made pictures. As far back as January 1, 1925, a law was passed declaring that for every foreign made feature film brought before the German censorship board a German film of approximately equal length should be presented for censoring at the same time. This system was known as the Contingent or "one for one" decree and it was designed to encourage German film production. Instead, it brought about the manufacture of cheap films to be used primarily to secure permits for the importation of American features, and so it was abandoned on January 1, 1928 and instead a straight import permit system was substituted. Two hundred and sixty of these will be granted for the showing of foreign films for the period April 1, 1928 to June 30, 1929. These permits are to be allocated to the different distributing companies in Germany on the basis of the amount of production distributed by them in 1927. As this form of film control will automatically come to an end next June, the German film trade is now holding meetings with the appropriate Government authorities to determine what form of film legis-

lation if any, will next be put into effect. While it would be dangerous to make any set prediction in the matter, it is generally believed that German theatre owners will be compelled to show a certain fixed proportion, probably 40 per cent, of German made films in their theatres after June 30, 1929.

The "Contingent" System of Austria

Austria too has a contingent system. Its original administration provided that every producer of a film in Austria should receive as soon as his film was produced 20 licenses for the importation of foreign films. These licenses were sold in the open market for whatever price could be obtained to any distributor who wanted to bring in foreign pictures. In other words, the number of films from this and other countries which could be brought into Austria was based squarely on the volume of Austrian film production and furthermore, the price of each license depended on the number of licenses available. As these became scarce the price of each went up, as the number became plentiful the price went down. Faced by this latter situation early in the Spring of 1927, the Austrian government reduced the contingent from 20 to 1 to 10 to 1. This was obviously too low and after protracted negotiation participated in incidentally by Mr. Cauty, the Motion Picture Trade Commissioner of the Department of Commerce, the contingent basis was raised again to 16 to 1 then to 18 to 1 and now finally for the year 1928 it has gone back to its old 20 to 1 basis. A curious provision of this newest regulation is that each license allows for the importation of only 3 prints of a feature, a new license being necessary for each additional print. It will be interesting to see how this will work out, because in the past as many as 7 prints of the bigger American features have been found necessary for the Austrian market.

The Hungarian Film Laws

A modification of the Contingent idea is to be found in Hungary also. Here every importer of 20 or more films annually must pay a duty of about 34 cents a meter in addition to the regular tax on each film so imported or else produce or finance the production of a Hungarian film of feature length. This law was put into effect as of January 1, 1928, and according to estimates it will involve a tax of about \$175 for each American film sent to Hungary. Incidentally a further change is now being contemplated which will reduce the number of prints which will be brought in under one license.

It can be seen that the German, Austrian and Hungarian film decrees have certain strong points in common in that they operate essentially on the distributor. Far different is the system which has been devised in England. Here the problem has been regarded as one of getting more British made films actually shown on the screen. Therefore a bill was passed just after Christmas, 1927, known as the Quota Law by which after April 1, 1928, all distributors in England must distribute $7\frac{1}{2}$ per cent British films and all exhibitors must show on their screens 5 per cent British pictures. This scale goes up $2\frac{1}{2}$ per cent each year till it reaches 20 per cent for both distributors and exhibitors. There it remains until the operation of the law automatically comes to an end in 1940, it being considered that by that time the British film industry should pretty well be on its feet. In order to make sure that British exhibitors will be able to reserve play dates for British made pictures supplementary provisions against blind and block booking are included in the bill. The particular effect of this law of course will be to force American distributors in the English market to

include the necessary percentage of British made features in their annual output.

Italy's Modified Quota System

A modification of this quota principle is found in Italy where first run theatres are forced by law to screen one Italian feature for every ten foreign features. As most theatres of this kind do not change their programs more than once a week it involves the showing of from five to eight Italian pictures per year. Within the past three months, however, an Italian organization known as Luce which formerly specialized in the production of educational films has been granted extensive powers by the Italian government not only in the production but also in the distribution and exhibition of feature films. The idea behind this is to center film control in an organization closely affiliated with the Fascist regime and insure the fact that the Italian public will see only such films as have government approval. This includes foreign as well as Italian films.

The Film Situation in France

We come now finally to France which has produced a film law somewhat different from either of the two types so far discussed. Beginning March 1, all foreign films before they can be shown in France have to receive the approval of a special commission. The basis on which such approval is given is that the film in question shall not be offensive to French traditions and customs and also only seven foreign films are admitted for censorship against each French film produced. However, such American companies that buy a French film for actual distribution in the United States will receive 9 permits for the importation of their products and furthermore 60 per cent of the American product based on the number of American films shown in France in 1927 is admitted free. The present law is in operation for only a year and the chief interest lies now in seeing what will be substituted for it next year.

Space is lacking to tell how the American distributors in these countries are trying to adjust themselves to these necessarily hampering restrictions. I shall also have to pass over a number of other interesting factors which have considerable effect on American film business in Europe—I refer here for instance to the composition and action of censorship boards in the various European countries and the various taxes imposed on the different branches of the film trade, these being heavy enough in numerous localities to interfere materially with the development of the industry. But I shall have to pass on to other fields where the American motion picture holds a great and constantly growing place.

Latin American Conditions.

Turning now to Latin America, we come to a field which produces comparatively small revenues compared with Europe, but which nevertheless, holds tremendous potentialities. A further advantage to American distributors in this market is that outside of a relatively small amount of newspaper demand for greater local production there is comparatively little agitation of any sort against American films.

Several attempts have been made by private enterprises to establish producing companies in several of the Latin American countries but due to lack of capital a majority of these ventures have failed. There is a small amount of production in Argentina and attempts have been made in Brazil and Chile. All told these countries produced about 35 films in 1927, none of which was shown to any extent outside of the

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Trade Follows the Film

How American Movies Sell American Goods

By N. D. Golden,

Assistant Chief Motion Picture Section Bureau of Foreign and Domestic Commerce



AMERICAN motion pictures are an important factor in the advancement of American trade abroad which is another way of saying that the motion picture which is exported to every corner of the earth and probably seen and enjoyed by more people than any other medium of entertainment has long become a very strong indirect salesman of American goods.

Slowly but surely this is being acknowledged by the American business man. He has begun to realize that the many lines of American products from gowns to automobiles which form the setting of nearly every movie scene are daily being brought to the attention of the millions of every land where American films are shown, and they realize further that admiration is often the prelude to purchase.

"Trade Follows the Film"

So widely has the American motion picture become a factor in the sale of American goods that the slogan "Trade follows the Film" is now serving as a rallying cry for many foreign nations in their attempt to raise the quantity and quality level of their own film production and at the same time to curb by legislation the showing of films from the United States.

It has been facetiously said that the American movie has given the Turk a derby instead of a fez and that it has cut off the Chinaman's queue and parted his hair in the middle. At a recent convention of manufacturers of bath room fittings it was brought out that through the movies, the bath tub which heretofore had been considered in some quarters a menace is fast becoming a solace.

Hollywood Bungalows for Brazilians

Speaking seriously, however, examples are not lacking which show the influence of the movies as a sales agent. The American Chamber of Commerce in Brazil, for instance, in a recent pamphlet stated: "There are many American products which arouse buying interest when presented in the cinemas of Brazil. One of the most striking examples is the spread of the American style of bungalow architecture. The requests received from Brazilians for photographs of houses used in street scenes has been too numerous to allow any doubt about a direct connection between the movement in Brazil and American pictures. Here is another example from Brazil:—

Wanted the Winning Automobile

An American film shown a few years ago in Rio de Janeiro had for its climax an automobile race in which the hero drove a well known make. Previous to the appearance of the picture the Rio agent of the car had been making sales of about five cars a month but sales for the month after the picture was shown increased 35 per cent.

Because they have formed a pleasant background for so many pictures, swimming pools at private houses have come into general use in a number of Latin American countries. Because they were being forced to install new machinery to make shoes like those the American "movie" queens wear,

shoe manufacturers in Great Britain protested not long ago.

Movies Better Than the Diplomats

Speaking of this general tendency, "London Daily Post" as far back as the Spring of 1923 made the following editorial statement:—

"If the United States abolished its diplomatic and consular services, kept its ships in harbor and its tourists at home and retired from the world's markets its citizens, its towns, its countryside, its roads, motor cars, and counting houses would still be familiar in the uttermost corners of the world. The film is to America what the flag was once to Britain, by its means Uncle Sam may hope some day, if he be not checked in time to Americanize the world."

A Department of Commerce official recently returned from Europe made the following observations:—

A prominent engineer in one of the countries visited became interested in the American road making machinery shown in one of the pictures he happened to see in one of the cinemas a few years ago. As a result of this showing the road department of that particular country has today through efforts of the engineer secured American road making machinery.

Europeans Have Adopted American Belts

No American visitor in Europe can fail to notice the present change in style for men's clothing. American belts are finding a good market in Europe and a certain American collar manufacturer's sales have been greatly assisted by the types of collars worn by American male stars in the movies.

If any one believes that the sale of American silk hosiery has not received an impetus in Europe he has another guess coming. While the improved economic conditions in Europe may have something to do with the greater sale of American silk hosiery, the films have undoubtedly contributed a great deal in this direction. Wherever one goes in Europe one hears the workmen and the wage earner striving to better their conditions, because American films have shown how their colleagues in this country are treated and the luxuries they enjoy.

Main Street Knows the Styles

It is not only abroad that the film is playing the role of silent salesman. Right here in this country too they are having considerable usefulness in encouraging trade. Any small town retailer will tell you of the influence of the movies, in keeping the people of even the smallest villages abreast of the latest styles and in making them demand everything in the latest mode. As one buyer for one of the large city Department stores recently observed:—

All the villages no matter how small and how remote from the so called centres of the mode see motion pictures and promptly take up whatever appeals to them in style.

As stated before the motion picture without consciously advertising the wares of American manufacturers, does exert a far reaching influence. The farm housewife sees a new labor saving device and she purchases it. Her husband sees

a new threshing machine, their daughter gets an idea for a new dress. The son of the house discovers the type of overcoat he wants. In one picture a few years ago a famous star used a special perfume, the name of which as it happened was easily identified due to the shape and color of the bottle with the result that that brand of perfume had a tremendous sale.

Again reverting to the foreign phase of our American motion pictures, we find that the degree to which American motion pictures are spreading the demand for American goods in the remotest corners of the world is a factor to be reckoned with.

The Great Silent Salesman

This free selling agency is due to a new American industry. It has come to us at a time when we needed it most. American exports have passed that percentage of our total turnover that might be termed our marginal profits. When

exports are becoming a necessity for us, we immediately have on hand this creator of demand for our goods.

Little is known however, in our country, by those who profit by this silent salesman, of the difficulties that American films encounter in foreign trade, where artificial barriers such as contingents and quota systems have been set up to restrict the number of American pictures from being shown. Due to the service our motion pictures are rendering all American trade abroad, our film industry should be able to count on the support of all other industries, when confronted, as it is in the major markets of Europe and the Far East with such restrictive measures. It is furthermore, certain that these restrictive measures will spread to other foreign countries and unless a unified front is presented in endeavoring to counteract these measures both American motion picture producers and other industries may find a dropping off in their financial returns from foreign markets.

Growth of the Industrial Films

By E. I. Way

Motion Picture Section, Bureau of Foreign and Domestic Commerce



OOMING squarely behind the entertainment motion picture is a rising young giant whose potential strength has won undenied recognition in the business world as a silent salesman of considerable merit.

According to an old Chinese proverb "One seeing is worth a thousand tellings." It can easily be seen therefore that the potentialities in a reel of film are entirely worthy of consideration. Fortunately, for world wide use the film needs no translation for if there ever was or ever will be a universal language, pictures will be that language, motion pictures above all.

American Dyes in China

A concrete example which illustrates the use of the motion picture as an advertising medium is presented in the case of the American dye manufacturers in holding their Chinese trade. Before the war most of the world looked to Germany and England for their dyes. When these countries were shut off from supplying the demand, the United States began making its own dyes and eventually developed enough business so that it supplied dyes to the large and important markets in the Orient. But after the war, China, as a result of long habit, turned back to Germany for its dyes. The American manufacturers and exporters of dyes, knowing that they had many colors equal in quality to the German dyes, sent experts to investigate the Chinese market. These experts reported that the conservative Chinese feared that such a new industry in a young country would not have the stability either in manufacture or in distribution to continue to supply so large a market as the Orient in competition with revived European industry. To refute this idea, and to convince the Chinese of the stability, permanency and general soundness of the American dye industry, the American dye manufacturers had a motion picture made showing the dye industry in the United States was more than one hundred years old, that \$20,000,000 were invested in dye plants, which covered thousands of acres of valuable land, and views were given of the substantial buildings and the army of employees. The result of the showings in China

of this set of pictures, proving that the American dye business is on a sound and permanent basis, is that today the American dye manufacturers have regained and increased their business in China.

A Typewriter Movie

Another example is that of a film made for a large American Typewriter Company, which portrays one of the factories in the United States, showing the workers and the processes of manufacture. The picture conducts the spectator straight through the factory, showing each step in the manufacture of the machine. Then at the end, a trick picture shows the many parts of the machine assembling themselves into their right places until the whole machine stands forth in its entirety. This picture was sent to the company's foreign offices, where it received a hearty welcome, as it made the agents in faraway countries such as China and India feel very much more a part of the whole big family.

As is often the case with a really good picture, this movie, planned originally for use in sustaining esprit de corps, was taken up for public showings. It was so successful in the foreign field that it was adopted for use in the United States, where it has been shown by the agents of the company before chambers of commerce and business women's clubs.

Scenario of the New York Stock Exchange

Some propaganda pictures, however, can be of sufficient general interest so that they can stand on the facts and receive wide showings as news reels. One of the most interesting of this kind is a picture made of the New York Stock Exchange. "Under the Spreading Buttonwood Tree" a name derived from the fact that the exchange had its origin under a buttonwood tree in 1792. Starting with this picturesque background, interesting "shots" show the growth of the exchange and the association of eleven hundred brokers of highest integrity and responsibility. Actual scenes on the floor of the exchange are shown for the first time. Stocks and bonds are bought and sold, orders are received, transactions recorded, the money desk is pictured, where borrowers and lenders meet, securities are delivered, and there is a view of the clearing house,

where final reports of the day's transactions are taken. The object of the picture is to impress upon the public the integrity of the members of the Exchange and the carefulness they exercise in business transactions. This picture has met with universal interest.

Milady's Furs

Of course, any association or firm making a movie for advertising purposes wishes to get as wide a distribution as possible, and many have been fortunate enough to have pictures that were sought by movie houses. A few years ago a large Fur Association showed such a picture. The winter was mild and consequently the sale of furs was slow. To remedy the situation the furriers undertook an extensive advertising campaign. They arranged to have made a two-reel film setting off furs to the best advantage, in the natural colors. No pains were spared to make the picture elaborate and beautiful. Marvelous fur garments were chosen, ranging in price from \$300 to \$35,000. Pleasing models were found to wear these furs, proper backgrounds were set and the photography was excellent. The result was an attractive picture which was run for five weeks on Broadway, then was demanded for general exhibition. And as a good advertisement it worked. Hundreds of sales, often of the more expensive garments were traced directly by the dealers to the effect of this picture.

Demand for Industrial Films

Thus we can see that the importance of the motion picture is being recognized by the industrial world as a potential sales and educational medium for their product. The enormous impetus which the film has given trade is well reflected in the mirror of the world's industrial activities. If America, through the world wide distribution of her motion pictures, is assuming a prominent role in the trade development, it seems to indicate that this educational medium has been of material assistance in placing our products before the eyes of the shopping world. If the trade winds have carried industrial seed from the entertainment picture into foreign fields, which have borne fruit before we became fully conscious of the fact, we need not pause to reflect as to what results might be obtained if we consciously cultivated our field of trade opportunities with films actually designed for that purpose. There is a constant and growing demand for industrial films which is keeping rapid stride with trade. Survey of the foreign field brings forth many facts which govern the success of industrial films abroad. The individual demand as expressed by the various markets calls for a distribution of industrial films of commodities as vastly varying as diamonds and machinery.

Potentialities of the Domestic Field

It would seem natural to believe that with all that has been said about the foreign field that our domestic field might not prove as fruitful a source of endeavor as far off fields. However, this is far from being the case when it is considered that there are 800,000 logical outlets for motion pictures in places other than in the motion picture theater, and private home. In other words a potential field of display exists for the non-theatrical film that is forty times as large as that in the recognized theatres in the United States. At the present time over 47,000 non-theatrical standard projectors are in operation and twice that many narrow width or 15 millimeter projectors, the two totaling close to 150,000 non-theatrical projectors—over seven times the total number of theatres and this number is growing steadily.

The Farmer and the Film

The use of a small portable projector with the 16 millimeter film is one of the very best methods for demonstrating many products. Agricultural implement manufacturers have produced films initiating farmers into the mysteries of tractors and other heavy farm machinery. It is not always feasible for a salesman to take a large piece of machinery about with him, but with a flivver, a motion picture portable projector and a roll of film the salesman can press into the remote districts and thoroughly and adequately demonstrate the uses of the most complicated piece of machinery in a few moments to even the most crusty and exacting prospect. The salesman of any large machinery—printing presses, road making devices, weaving looms, metal working machinery and many other large and cumbersome articles or of dangerous explosives cannot possibly take a sample of the product with him and demonstrate its uses, but he can easily take with him a portable projector and a roll of film and with this equipment give a perfect demonstration.

Movies in the School Room

In their present development in accuracy of details, reflecting industrial conditions, relating history, illustrating the uses of machinery and the ways of commerce and trade, and showing factories and mines, transportation, and American and foreign cities and customs, these media are an excellent means of education.

There are 30,000,000 boys and girls in this country in attendance upon educational institutions. They are under the instruction of a million teachers in a million class rooms. Visual education by means of the motion picture is already being used in the educational institutions of a number of the larger cities. As an example the city of Detroit is reported to have over 300 standard equipped motion picture projectors in use among the Detroit public schools. This is not an exception as many other communities are going into this work with equal sincerity of purpose. Much of the material for these schools is being supplied by university film libraries located in thirty States over the United States.

Educational Films Increasing

The actual educational film has also been introduced into churches with good effect, and is being used by various Government departments for the presentation of different phases of farming and other lines of work of interest to granges and trade associations. This form of educational work is being carried on quite extensively in the United States and several foreign countries, too, have adopted this medium for instructing the people in modern methods. Recently in India a large Indian Railway Company has equipped one of its coaches with a motion picture projector, screen and other apparatus, and has sent it about the provinces showing educational films which have drawn audiences of from one thousand to ten thousand people in each place. The agricultural departments of the provinces through which the railway runs provided films on cotton production, poultry raising, sugar cane cultivation and wheat growing. To promote its own business, the railway company also showed a reel illustrating some of the glories of India, present and ancient, designed to stimulate a desire to travel.

The Government Industrial Film Section

Industrial associations and business organizations in the United States are beginning to see how the industrial motion pictures can be used for sales demonstration, advertising

mediums, and sometimes for the instruction of employes and the building up of good will.

Due to the increasing demands of Industrial and Educational producers and exhibitors the Motion Picture Section established July 1, 1927, a service unit to represent this industry.

In this short time, in spite of the lack of adequate personnel the Section has received and answered over 5,000 inquiries relating to industrial and educational pictures. These inquiries came from manufacturers and film producers who have either produced films of this type, or contemplate their production and who seek information as to where and how such films may be distributed. Other inquiries are from Chambers of Commerce, clubs, schools, and other institutions of like nature, both here and abroad, who desire information as to where such films may be obtained.

Trade Bulletins

A Trade Information Bulletin on "Markets for Industrial and Educational Motion Pictures Abroad" has been published as well as a "Composite List of Non-Theatrical Film Sources" listing over 425 concerns distributing films of this kind.

At the present time an educational questionnaire is under way, which is to be circulated to over 6,000 schools which will develop pertinent information for the use of the producer in designing films to meet the need of the educator in supplying films for his school curricula.

While educational and industrial films fall into an entirely different category from entertainment films it is interesting to know that a large per cent of the inquiries now received are from those interested in furthering American trade and education.

The Federal Trade Commission and the Famous-Players Cases



ON August 30, 1921, a group of motion-picture artists, who later organized under the name of United Artists, filed a complaint with the United States Federal Trade Commission against the Famous Players Corporation charging that their method of selling groups of pictures to exhibitors constituted a conspiracy.

Among the artists in this group were Douglas Fairbanks, Mary Pickford, Charles Chaplin and W. S. Hart. These complaints were amended from time to time and were the subjects of extensive hearings by the Federal Trade Commission with the final result that the Federal Trade Commission on July 9, 1927, issued an order against the Paramount Famous Lasky Corporation, Adolph Zukor and Jesse L. Lasky to cease and desist from (1) continuing a conspiracy among themselves or with other persons to lessen competition and restrain trade in interstate and foreign commerce in the production, distribution and exhibition of motion-picture films; (2) the practice of block booking, that is, leasing films in blocks or groups and compelling picture houses exhibiting the films to accept all pictures in groups or blocks, or to receive none at all, without regard to the character of the pictures or the desires of the picture house managements; (3) acquiring or threatening to acquire theatres for the purpose of intimidating or coercing exhibitors of films to book and exhibit films of the Famous Players-Lasky Corporation.

In response to this order two reports of compliance were filed by the respondents. The reports of compliance regarding conspiracy and acquiring or threatening to acquire theatres were acceptable to the Commission, but the report on block booking was unsatisfactory with the result that the Federal Trade Commission filed a suit in the United States Circuit Court of Appeals of the Second Circuit in New York for the enforcement of its order.

Briefs on both sides of the case have been filed with the Court but argument has not been heard. Counsels on both sides have been conducting negotiations with a view of eliminating as much as possible of the vast printed records of testimony in order to save time in Court. Upon the com-

pletion of these negotiations and the printing of such testimony as agreed upon the case will be heard.

While these complaints were still pending before the Commission, the Commission instituted a Motion Picture Trade Conference which was held in New York City in October, 1927. This conference was conducted by Commissioner Abram F. Myers, representing the Commission, and was attended by representatives of the producers, distributors and exhibitors in the motion-picture industry.

While several controversial questions in the industry were ironed out at that conference the problem of block booking was left unsettled, no change being made in the prevailing system.

In the meantime, the Federal Trade Commission has been conducting an investigation for the past year into the general question of block booking by all motion-picture producers. While a court decision in the Famous Players case might be of such a character as to cover block booking for the entire industry, it might, on the other hand, be such as to cover block booking as carried on by Famous Players only, and the Commission decided that it would be well to be informed on all phases of this question.

In the meantime, the Commission has been considering a complaint of unfair competition against five motion-picture operators on the West coast of the United States, the West Coast Theatres, Inc., being the principal respondents. The final hearing on this case was held on October 22, 1928.

The principal charge in this complaint is that the respondents are guilty of unfair competition by combining to prevent producers or distributors in other states from leasing films to competitors of the respondents and shipping them into the State of California for delivery to the respondent's competitors. The respondents are further charged with effecting a joint management recognizing a restricted territorial agreement and employing coercive means to bring this agreement into effect.

The Commission has the case under advisement.

The Motion Picture Industry Today

What it Has Done and What it is Trying To Do

By Carl E. Milliken

Secretary Motion Picture Producers and Distributors of America, Inc.



FROM the standpoint of size alone, the motion picture industry challenges interest, even in this age of vast enterprise. Three hundred and twenty-five thousand men and women are directly employed in the task of providing amusement on the screen to audiences which total 120,000,000 a week in this country and 250,000,000 a week throughout the world. As the average family is said to be four people, it is safe to assume that 1,000,000 Americans depend directly upon motion pictures for a livelihood.

The total investment in the industry exceeds \$2,000,000,000 and is widely distributed. More than 60,000 stockholders share in the earnings of the large producing and distributing companies. To this must be added other thousands with investments in theatre properties. Developments in synchronization of sound have brought great electrical corporations, with scores of thousands of share-owners, into a position where the well-being of the industry is of direct concern to a new and far-flung group of American investors.

America Makes 85% of the World's Pictures

This element of size might be stressed indefinitely. Twenty-five thousand miles of film pass through American exchanges every day. To those who had the boyhood privilege of helping mother wind yarn, it is easy to visualize the earth, turning completely around each twenty-four hours and winding its own circumference in film with each revolution.

American motion pictures are the most individual product of the nation. The United States possesses six per cent of the world's land and numbers seven per cent of its population. We grow 27 per cent of the world's wheat, dig 40 per cent of the world's coal, produce 65 per cent of the world's petroleum, make 80 per cent of the world's automobiles and produce 85 per cent of the world's motion pictures.

A Service to Civilization

All this size is important; all the business care and coordination which has guided the growth of motion pictures in two decades from toyhood to the fourth rank among American industries, and from the speculative field to that of sturdy investment, is important but we in the industry are proudest of the spirit which has consciously shaped this growth toward genuine service—to civilization in general, to prosperity and to the maintenance of those ideals of living and conduct which are a nation's most necessary and cherished possession.

"The Open Door Policy"

Motion pictures are the first great medium of expression to take formal cognizance of its own attitude-forming power and to operate, through self-discipline, a rigorous direction of that power. In 1922, Mr. Will H. Hays, president of the Motion Picture Producers and Distributors of America, Inc., instituted what he called the Open Door Policy. As secretary of the organization, it has been my privilege to share the conduct of that policy. We invite, and receive,

the cooperation of church groups, civic organizations and educational authorities to help us in shaping motion pictures right.

The Moral Side of Pictures

No form of American activity is so open to suggestion from the forces of educational and moral health as is the making of motion pictures. We especially ask affirmative judgment, in the belief that commendation and recognition for the best in pictures is the surest way to progress. Four important religious and civic organizations indorsed 245 feature pictures in 1926; 13 organizations indorsed 645 pictures in 1927 and 23 organizations indorsed 647 pictures in the first half of 1928. Yet, unfortunately, the outcry of one self-appointed reformer makes better headlines than the result of study and scrutiny by these varied groups of earnest Christian men and women.

Since the moral side of pictures is so persistently (and so unjustifiably, in view of the facts) made a moot point in the discussions of legislative measures which strike at the economic vitals of motion pictures, I should like to cite one specific example of the care and forethought which goes, from the moral side, into pictures produced within the ranks of the organized industry.

Criminals Never Pictured in News Reels

The example is the crime theme. Crime is of moral concern to every American just now. It is also of economic concern. It is among the great wastes which cry for elimination in our national life. In money it is said to cost American business three billion dollars a year. In heart-break and tragedy the sum is a black figure too mighty to estimate.

Psychologists say that two external influences tend to stimulate a warped mind to crime. The first of these is the notoriety, the seeming glamour, which attaches to certain criminals. The desire to be of importance, some way, any way, is one of the compelling forces in the nature of a certain nerotic type. That is why you never see a picture of a criminal, or a criminal's name, in the news reels. Think over that piece of self-discipline on the industry's part. Let me repeat it. You never see the picture of a criminal, or a criminal's name, in the news reels.

Facing Problems with Pioneer Spirit

The second major psychological factor which tends to stimulate crime is the enormous number of instances in which criminals escape punishment. The chances for murderers and for thieves to evade conviction and punishment in the United States are immensely in favor of the wrongdoer, and that margin of safety is widely advertised. Watch the next motion picture which includes among its characters any perpetrator of evil. Crime never pays dividends in the movies. The wrongdoer is always caught, always pays the penalty.

The motion picture industry has had certain advantages in its lack of hampering custom. It came on the American scene after that scene had become modern in every sense of the word. It brought a host of new problems of its own,

and it could and did face them with the true pioneer spirit.

More Than 10,500,000 Separate Movies a Year

In 1922, motion picture producers, distributors and exhibitors were staggering under an annual burden of 4,000 lawsuits. This did not mean that everyone was trying to take unfair advantage of everyone else. The average motion picture theatre annually rents approximately 175 feature pictures and about 350 news reels, comedies, novelties and other short subjects. It will be seen that the 20,500 theatres in the United States enter into contracts calling for the delivery and exhibition of more than 10,500,000 separate pieces of film each year. There are innumerable opportunities for honest differences of opinion in the fulfillment of these myriad contractual obligations.

The Hays Arbitration Plan

Mr. Hays instituted, through the Film Boards of Trade, a system of arbitration which operates successfully in the thirty-two motion picture distributing centers. When a distributor and exhibitor fail to agree, the matter is referred to a board composed of three exhibitor representatives and three distributor representatives. In four years these boards have settled, to the mutual satisfaction of men who otherwise would have become litigants, 50,006 contractual disputes involving \$11,200,298.94. We estimate that the practice of this system of arbitration has saved the various groups affected, producer, distributor and exhibitor, 4¼ per cent of the annual business turnover of the industry. If every other American industry would apply the same, or an equally effective method of settling disputes, the saving on the nation's annual business turnover of \$150,000,000,000 would total \$20,000,000 a day!

The Movies as Selling Agents

Even in such a brief survey as this, it is impossible to consider motion pictures without commenting on their vast service to other business. As a creator of buying habits, at home and abroad, the motion picture has no rival. There are no more out-of-date towns. Alexander P. Moore, former Ambassador to Spain and now on leave from his similar post in Peru, said that the best-known French modiste in Lima came to him just before he sailed recently to the United States. "Tell the motion picture people not to change styles too often," she said. "Everybody wants the newest, and everybody knows from the movies what the newest is."

The California Bungalow Goes to South America

Department of Commerce reports show over and over again that trade follows the motion picture. A certain type of California bungalow has become standard in South America. Agents of an automobile company reported that de-

mands for the car were multiplied by ten after its appearance in a feature picture on the screens of a Latin-American capital. Java, a year or two ago, discovered the sewing machine and took it to its heart and hearth.

Sixty-seven million dollars is spent each year by the industry in display advertising alone. More silver is used in the manufacture of film than for any other purpose. Film base is 92 per cent cotton and 200,000 miles of raw film is developed each year. A single studio in Hollywood required 150 carloads of lumber during its construction, and other material in proportion. The prosperity of every American industry is inextricably intertwined with that of motion pictures.

Lindbergh and Carranza

The motion picture sells more than manufactured product. It is an agency for international good-will which works steadily, day in and day out, in more than 50,000 theatres throughout the world. When people know and understand each other, they do not hate. I recently saw a New York audience applaud and cheer at pictures of the splendid acclaim with which Latin-America crowds greeted Colonel Lindbergh on his historic air tour of the Americas. I know that Mexican audiences must have been deeply moved at the sincere and sympathetic honors which we accorded their gallant aviator, Captain Carranza, when he lost his life in a fog over New Jersey.

What gives American pictures their place in the theatres of the world? First, sheer entertainment quality. Second, the fact that no propaganda of any kind is permitted to intrude. Just as we seek and receive the cooperation of church and civic leaders in maintaining the moral tone of our product, so we consult constantly with the embassies and consulates of other nations to the end that the product shall present the nationals of all countries in a fair and helpful light to the nationals of others.

Future Progress Predicted

This industry has grown to its present high state of usefulness because it has been accorded that best of American privileges—opportunity for the free play and development of individual courage, initiative and mental resource. The merest thought of subjecting it to legislative restriction or bureaucratic control is foreign to every tenet of American ideals and to the good of the community. The organization, the system of selling, the friendly settlement of disputes, the methods for self-direction in keeping the product wholesome—all the delicate machinery behind the 10,500,000 picture sales yearly in the United States and the other millions to foreign countries, is susceptible of continued progress if left alone, and of chaos if the deadening hand of bureaucracy intervenes.

What the Brookhart Bill Provides

EDITOR'S NOTE—The Brookhart Motion Picture Bill (S. 1667) was introduced December 13, 1927. Hearings were held on it by the Senate Committee on Interstate Commerce February 27 to March 2, 1928. No action has been taken by the Committee.



HE title of the Brookhart Bill states that it is "A bill to prevent obstruction and burdens upon interstate trade and commerce in copyrighted motion-picture films, and to prevent the restraint upon the free competition in the production, distribution, and exhibition of copyrighted motion-picture films, and to prevent the further monopolization of the business of producing, distributing, and exhibiting copyrighted motion pictures, by prohibiting blind booking and block booking of copyrighted motion-picture films and by prohibiting the arbitrary allocation of such films by distributors to theaters in which they or other distributors have an interest, direct or indirect, and by prohibiting the arbitrary refusal to book or sell such films to exhibitors in which they have no such interest."

Section 1 states: For the purpose of this act a transaction in respect of any copyrighted motion-picture film shall be considered to be in interstate commerce if the film is a copy or reproduction of a negative or positive film and is part of that current of commerce usual in the motion picture industry whereby films are sent from one State to another with the expectation that they will circulate until the film has been exhibited such number of times that the public demand for exhibitions thereof has been met, including in addition to cases within the above general description, all cases where films are shipped by distributors located outside a State into that State to any branch or agency owned or controlled by such distributor. Films normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations. This section includes also definitions of the other terms used in the act.

Section 2 describes the method of distributing motion picture films through exchanges and states that by the existing methods films frequently pass to and fro across State lines as interstate commerce.

Section 3 declares that affiliations have been formed between certain producers, distributors and exhibitors which give them an advantage over other distributors and exhibitors who are not so affiliated; that this advantage is theirs by virtue of controlling the production as well as the distribution and exhibition of films; that interlocking control of production, distribution and exhibition results in restricting the supply of films obtainable by exhibitors who are not affiliated with producers or distributors, and that certain practices have grown up which consist of (a) blind booking and block booking and (b) unfair discrimination in the allocation of films in favor of exhibitors affiliated with producers and distributors and the prejudice of exhibitors not so affiliated.

This section also describes blind booking and block booking.

Section 4 provides that six months after the approval of the act it shall be unlawful for any producer or distributor

of copyrighted motion-picture films in the current of interstate commerce to lease or offer for lease for exhibition in any theater or theaters copyrighted motion-picture films in a block or group of two or more films at a designated lump-sum price for the entire block or group only and to require the exhibitor to lease all such films or permit him to lease none; or to lease or offer for lease for exhibition such motion-picture films in a block or group of two or more at a designated lump-sum price for the entire block or group and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which total or lump-sum price and separate and several prices shall bear to each other such relations as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition, or shall bear such relation to each other as to tend to require an exhibitor to lease such an entire block or group or forego the lease of any portion or portions thereof, or shall bear such relation to each other that the effect of such proposed contract for the lease of such films may be substantially to lessen competition or tend to create a monopoly in any part of the certain line of commerce among the several States, to wit, the business of production, distribution and exhibition of motion-picture films.

Section 5 provides that after eighteen months from the date of the act it shall be unlawful for any producer or distributor of motion picture films, in the current of interstate commerce, to make or enter into any contract, agreement, or arrangement for the leasing of any film or films for exhibition to the public, unless such copyrighted film or films have been completed and are available for immediate release and without first affording the exhibitor desiring to lease such film or films an opportunity to view a projection of such film or films upon a screen if he so desires.

Section 6 provides that after six months from the date of the act it shall be unlawful for any producer or distributor to allocate, lease, or rent copyrighted films to theatres which are affiliated directly or indirectly with such producer or distributor or with any other producer or distributor without affording all competing exhibitors an equal opportunity to bid for such films in free and open competition.

Section 7 provides that the administration of the act is vested in the Federal Trade Commission, which is authorized and empowered to make suitable rules and regulations for giving effect to the provisions of the act, including the power, after full hearing, to fix the differentials which may be observed between the price of a block or group of films and the price of a separate and several film or films less than such block or group as mentioned in Section 4 of the Act.

Section 8 provides that any person who shall knowingly and willfully violate any provision of the act or any order, rule, or regulation made by the Federal Trade Commission, shall, upon conviction in any district court of the United States, be sentenced to a fine of not more than \$10,000 and not less than \$1,000, or to imprisonment for not more than one year or to both such fine and imprisonment, in the discretion of the court.

Will the Brookhart Bill Help the Exhibitors?

Pro

HON. SMITH W. BROOKHART

U. S. Senator, Iowa, Republican



THE purpose of this bill is to prevent certain abuses which have grown up in the motion-picture industry which have a monopolistic tendency, and which tend to prevent a free choice by the thousands of independent motion-picture exhibitors of the country in the selection of films for exhibition to their patrons.

The first motion picture was shown as a form of public entertainment just 31 years ago. The industry has grown by leaps and bounds until today it is among the first 10 industries of the United States, and represents an investment in the neighborhood of \$1,500,000.

This great industry plays an important part in the economic, family, and social life of the country, and the monopolization thereof by a particular group and the imposition of conditions which prevent the exhibitors, the only ones in the industry with whom the public has contact, from selecting films best suited to the preferences and tastes of their patrons, is a matter of grave public concern.

The industry consists of producers (those who produce the plays and make the films), distributors (operating film exchanges from which films are supplied to the exhibitors), and exhibitors (who own and operate theatres or other places for exhibiting motion pictures to the public). Formerly these three branches were in separate hands and corresponded to the manufacturers, wholesalers, and retailers who make up most industries.

Gradually the production of pictures came to be controlled by a comparatively few, but very powerful companies which inaugurated a system of integration, which was really one of aggrandizement. The first step was to distribute their own films; the large producers today, for the most part, distribute their own products. This paved the way for the elimination of the independent distributors who handled the films of producers, great and small, as they came on to the market.

The second great step was the entry by the great producers-distributors into the exhibition field. Large theatres were acquired or built in the larger cities on the claim that it was necessary to have such key houses properly to exploit their films. The contention is, and it is probably true, that much of the good will of a particular film depends upon a successful first run in one of these so-called key houses.

Films are distributed under a system which involves what is known as "block booking" and "blind booking." By this it is meant that an exhibitor, in contracting for films for exhibition in his theatre, must take films, many of which are still in production and without a preview of the same, or be denied the films altogether, this being the "blind-booking" feature of the practice. Also, the exhibitor is required to take pictures of any given producers in block or groups ranging from a dozen to 60 pictures. That is to say, the producers release their films in blocks or groups and the exhibitor must take all of the pictures included in such blocks, the good with the bad, the suitable with the unsuitable, or have none.

In other words, the exhibitor, in order to get the films of a certain producer which are suited to the tastes of his

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Con

CHARLES C. PETTIJOHN

General Counsel Motion Picture Producers and Distributors of America.



THE chief legal objection to this proposed legislation is that its effect would be to deprive producers and distributors of their absolute right to choose their own customers. It has been repeatedly decided by the Circuit Court of Appeals and the Supreme Court of the United States that a manufacturer and/or wholesaler may select his customers at will; and in the absence of a conspiracy or concerted action to coerce, intimidate or boycott, may refuse for any reason he considers fit, to sell his product to a retailer.

Every producer, necessarily from the very nature of the industry, desires to have his pictures exhibited in the best theatres. This is especially true with respect to the first-run exhibition which, in effect, is the show-window of the territory and often determines whether the picture is to be a success or a failure. The character of the theatre, its location, policy, prices of admission, seating capacity, manner of presentation, class of patrons, general reputation, etc., are all matters of vital importance to the producer and distributor, and often they are equally as important, if not more so, than the rental paid by the theatre.

The effect of the Brookhart bill would be to ignore all these important considerations and make the price of the picture the one controlling feature in the industry and deny to the producers and distributors in this industry the same right of contract granted to manufacturers and wholesalers in other industries, to wit, the freedom to choose their own customers. The author of the bill probably had in mind the rulings of the Court on this question of freedom of choice of a customer, so in drawing the proposed bill sought to avoid this rule by emphasizing the fact that the films are copyrighted. Almost without exception they are described as "copyrighted motion picture films." The mere fact that these films are copyrighted does not make them an exception. There is no analogy between a copyrighted film and a patented mechanical device. Every picture is different and no two can possibly be exactly alike. Their value and worth is to be found, not in the fact that they are protected by a copyright, but in their drawing power at the box-office. In every show year several hundred desirable pictures are on the market. Some are better suited for certain audiences and theatres than others and some are more popular generally over the country than others. All of which goes to make an open market and keep intensive competition.

Section 3 describes certain alleged conditions and practices in the industry and declares that the practices of blind booking, block booking and unfair discrimination in selling affiliated and chain theatres, in preference to independent theatres, threatens to create a monopoly in the industry. These allegations form the base on which the bill is constructed.

The Federal Trade Commission, after an extensive investigation, issued an order against block booking but before attempting to enforce such order, very properly endeavored in co-operation with representatives of the whole industry, at a Trade Practice Conference, to find a sales system to substitute for block booking and at such conference, members of the industry agreed on certain modifications which,

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Pro

HON. SMITH W. BROOKHART—Continued

patrons, and which he knows they will want to see, must take many other films not so suited, which may prove even offensive to his patrons. While this rule is enforced as to independents, it is not so enforced as to the producer-controlled theatres.

The commodity we are dealing with is not like potatoes, or other articles which may be duplicated freely in the open market. These pictures are copyrighted. The producers enjoy an exclusive right to these productions under the laws of the United States. The exhibitor must get a particular picture from the producer who owns that picture, and under this practice he must take a lot of other pictures in order to get the one he wants.

To insure free and open competition in the production, distribution and exhibition of motion-picture films by preventing block booking, blind booking, and undue discrimination in favor of affiliated or controlled theatres, and against independent theatres is the purpose of my bill.

That these necessary ends can only be achieved by legislation has been demonstrated. Attempts have been made through conference and negotiation to work out some of these problems, but they have failed through the obduracy of the producer-distributors, as the witnesses will explain.

The Federal Trade Commission, after several years of litigation, has issued an order against the Famous Players-Lasky Corporation, the largest of the producer-distributors, to require it to cease and desist from block booking. To sustain this order will require additional years of litigation in the courts. Moreover, it applies only to one producer-distributor, and proceedings would have to be had against at least six others to accomplish reform on this one point.

Much propaganda has been issued against the bill, the most of it raising a false issue of Government regulation. Reference is made to the paragraph vesting administration of the act in the Federal Trade Commission with power to make rules and regulations in certain necessary features of administration.

The bill steers a straight course between block booking on the one hand, and the right voluntarily to buy in quantities and obtain advantage of a fair quantity discount. This course seemed desirable from all standpoints. Obviously, however, no such plan will work unless provision is made for some method, by which to establish fair differentials between groups of pictures and single pictures, or small quantities of pictures. The bill says that the commission may, after full hearing, fix such fair differentials.

The cry has gone out that this constitutes Government price fixing. You will recognize that there is nothing in this provision that fixes the price of any pictures. Certainly it is not contemplated that the commission shall arbitrate every difference that might arise under any contract. The plain contemplation of the bill is, the commission shall fix differentials in terms of percentages, which shall apply generally to different classes of films.

An analogy is found in the acts regulating the use of safety appliances in the railroads. The Interstate Commerce Commission from time to time prescribes the percentage of cars in a train, which must be connected with the air line, and that becomes a rule of conduct for the railroads.

There is one other proposition that is a matter of importance, and that is the question of arbitration. There is a compulsory arbitration in these contracts, and the way the

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Con

CHARLES C. PETTIJOHN—Continued

when put into effect, will entirely eliminate any possibility of evil in any of the practices heretofore indulged in. The Department of Justice, as is well known, is making a comprehensive investigation of the industry, so there seems to be little or no need of this legislation.

The exhibitors who are opposed to block booking in buying pictures seem to desire to pick and choose where they please at their own price.

There is absolutely no mechanical differential price system under which this industry can live. The minute you fix the maximum that a picture can take in—and that is exactly what this system would result in, you retard for all time the ambition and the reward that come with trying the unusual. You discourage the greatest thing back of the production end of this industry, and that is the incentive for larger grosses and larger returns which are necessary to bring to the screen such pictures as "The King of Kings," "Ben-Hur," "The Covered Wagon," "What Price Glory," "Robin Hood," "The Sea Beast," "The Patent Leather Kid," "Keeper of the Bees," "Hunchback of Notre Dame," etc.

When a producer offers a block of pictures to an exhibitor and states that he wants a complete sale or none at all, the exhibitors can refuse to buy that way, if he does not desire to do so. Nobody argues sensibly any more that any one brand of pictures in this industry is necessary to an exhibitor. If he does not like the selling plan of, for example, Paramount-Famous-Lasky Corp., at the price quoted, he can buy some other brand of merchandise, and there are too many successful brands on the market today to any longer dispute the old idea that an exhibitor had to have certain pictures in order to live.

The provisions of Section 5 would make it unlawful for a producer or distributor to make and contract for the sale of copyrighted films unless the same have been completed and are available for immediate release and to refuse exhibitors a preview. Here again is an extraordinary discrimination against this industry.

The effect of this section would be to slow down the whole course of the business and compel the producers and distributors to carry films, representing investments of millions of dollars (frozen capital), idle on their shelves for months.

The provisions of this section would absolutely abolish the news reels. They constitute a prompt news service, similar in function to the daily newspapers. From their very nature they cannot be exhibited in advance of their sale any more than could a newspaper be similarly previewed.

News reels service is sold by the year 104 issues for release—two each week. The prices run from \$2.00 to \$10.00 per theatre per issue. To attempt to sell each issue separately would be impossible. To prohibit the sale of this news service by the year would make it mechanically and physically impossible for any of the six news reels to exist.

The strongest argument against the Blind Booking—Auction Block feature of the Brookhart bill is that although it is seriously embarrassing to the producer, distributor, exhibitor corporation, it works worse hardships on the very exhibitors supporting this bill. If the provision for sale to the highest bidder is efficacious, then the producer-distributor who has invested enormous sums in the highest class motion pictures has no assurance for the supply of his theatre. If it is not efficacious (and it is difficult to see how it can be since the affiliated theatre could bid exaggerated sums for pictures

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Pro

HON. SMITH W. BROOKHART—Continued

arbitration court is made up it practically gives the big producers control of that court, and it renders it, as we call it in the Army, a "kangaroo" court—it is all on one side. There is no escape from it. And it may be necessary to add some section to the bill to reach that proposition.—*Extracts, see 1, p. 322.*

Cleveland (O.) Motion Picture Exhibitors



HEREAS, Senator Smith W. Brookhart, of Iowa, has introduced in the United States Senate Bill S. 1667, seeking to give relief to the unaffiliated independent motion-picture exhibitors of the country in their business dealings with the film distributors; and

Whereas, after a careful analysis of the provisions of the bill it has been unanimously agreed by the members of this organization that its passage will materially benefit the independent motion-picture exhibitors generally; now, therefore, be it

Resolved, That this organization go on record favoring the passage of the bill, and further that the members of this organization be urged to lend their active support and the use of their screens to acquaint the general public with the details of the measure and to ask the co-operation of the theater-going public to assist in having the bill passed by the National Legislature.—*Extracts, see 1, p. 322.*

Motion Picture Theater Owners of Wisconsin



HE Motion Picture Theater Owners of Wisconsin are in thorough accord with Senate Bill 1667, and sincerely hope for its passage.

Our United States Senators and Congressmen from Wisconsin will also be informed to this effect, and that they use every honorable means for the passage of this bill and to save from trustification the independent motion picture theaters of Wisconsin.

Trade press reports to the effect that 70 per cent of the seating capacity of America is opposed to this bill are almost wholly distorted in their estimate. The chain and producer owned theaters of Wisconsin do not aggregate over 10 per cent of the seats of our State. Better than 90 per cent of the screens and seats of Wisconsin are still independent and pray for the passage of your bill to save themselves from further inroads by producer-owned combines.

Every effort is being made by opponents of this bill to have our independent exhibitors oppose the same, but without effect. The Motion Picture Theater Owners of Wisconsin are a united unit for this bill and shall continue to fight with you for the passage of the same without any amendments being added thereto or without any change.

We congratulate you for the earnest endeavor to save the independent theater owners of America from ruin and destruction, and sincerely hope that your efforts will be crowned with success, thereby keeping the screens of America in the hands of the people, where they belong.—*Extracts, see 1, p. 322.*

Con

CHARLES C. PETTIJOHN—Continued

as long as it was paying them to its subsidiary or to the company which owns it), then the unaffiliated theatre would be the one hit since it would have no assurance whatever of product.—*Extracts, see 2, p. 322.*

Metro-Goldwyn-Mayer



E BELIEVE that the Brookhart Bill proposes legislation that is injurious to the motion-picture industry:

Because it is endeavoring to upset the ordinary laws of economics.

It deprives the producers of the motion-picture industry of a time-honored right to select its own customers in transacting its business.

It provides for a setting of prices on the products of the producers by a third party and does not leave to seller and customer the right to determine their own relations.

It sets up a regulating machine which would impede ordinary business in the industry and place a burden of expense on the industry and the public treasury.

It endeavors to legislate about subjects upon which there is already full and adequate legislation (Clayton Law).

This legislation was proposed for the obvious purpose of providing for a few exhibitors the right to obtain pictures from the producers, which pictures are now being exhibited at the houses owned by the producers, the desire being to compel the producer to permit these exhibitors to deprive the producer's houses of these pictures in order that the competitors of the producer might exhibit these pictures in opposition to the producer's theaters, thus depriving the producer of a right granted to every industry to have its own retail stores, its own retail show places exhibiting and retailing its own goods, a method of procedure strongly advocated by the present Secretary of Commerce as a method of reducing cost of operation. The price of the picture is only one of the elements that the producer desires in exhibiting its pictures. He wants the right kind of surroundings. He wants the right kind of house. This is particularly necessary in first-run houses which show to the fine clientele and which establishes the value of the picture for the rest of the world. The method of showing of the picture is almost as vital as the picture itself.

It would cause overbuilding and destroy established values. One of the greatest causes of dissatisfaction today is excessive building throughout the country. To enact a law which required the producer to sell his pictures to the highest bidder would be a great inducement for builders to build large theaters which could pay the largest prices for pictures which would mean that the old-time customer who had established his business on the basis of a definite-type picture would be driven from business. Present values in theaters would be destroyed and it would set up and promote a period of building one against the other, which would eventually mean ruin to the industry and particularly ruin to the small exhibitor who now owns his own theater.

We are opposed to this because we contend that the provisions of this law which require the selling of pictures individually would tremendously increase the cost of distribution, which would have to be paid by the exhibitor and eventually add to the price of admission. The business is so competitive and the rivalry for contracts so keen that any additional burden would take from the distribution end of the industry its last vestige of profits.—*Extracts, see 1, p. 322.*

Is the Motion Picture Arbitration Plan A Success?

Pro

WILL H. HAYS

President, Motion Picture Producers and Distributors, Inc.



PEDESTRIANS, when they meet on the sidewalk, turn to the right.

That's arbitration.

To stop and argue is irritation. It is also profitless.

Refusal to arbitrate business disputes is just as wise as refusing to turn to the right. The formulae of arbitration will soon be so well established that we will settle all ordinary differences as certainly and easily as we avoid brawls on the sidewalk.

Arbitration is the transition from rows to referees. It finds a fitting and fertile growing-place in the genius of the American people.

The whole progress of man is the tale of his abolishment of brutal methods of settling his disputes and the adoption of fair, smoothly-running means to reach agreement and cooperation.

The business world is a triangle. The two sides of it are production and distribution. The base of it is human relations. Arbitration is the best cement to hold the base together.

Industry Aided by Arbitration

I am going to tell you how arbitration literally rescued from chaos and, at the very least, trebled the possibility of swift and helpful expansion in the industry which has been my every day's thought since 1922-motion pictures.

It would be wandering too far from the theme of this occasion to stop and paint you the glamour, the color, the stirring excitement, of the rise of this industry. You know that it deals in relaxation, a product necessary to the man who works—and that is all of us—only in secondary degree to food and drink. You know that it speaks to the whole world, in a universal language, and through the eye, the swiftest avenue to the brain. You are beginning to realize that in its inevitable portrayal of the material comforts possible in modern life, it may well be called the greatest general sales agency for all who manufacture and distribute. Truly, no story ever told on the screen is more dramatic and more interesting than the story of the screen itself.

I am going to pass that story by, strongly though it tempts me; but I want you to comprehend briefly the present state of the industry, in order to understand that it is no minor array of problems that we have fed into the hopper of arbitration, and no small achievement on arbitration's part that has fed us back a continually smoother and more orderly conduct of our business.

A Quarter of a Billion Consumers

The motion picture industry today represents an investment of two billion dollars, an annual expenditure in production of pictures alone of \$125,000,000. The industry directly employs more men and women than Ford and General Motors combined. One hundred million paid admissions in the United States alone each week testify to its touch with the public. We in America supply a great majority of all the pictures made and shown throughout the world, and other nations combined have one and one-half times as many

Con

FRANK J. REMBUSCH

National Secretary, Unaffiliated Independent Exhibitors of America.



HERE is the monopoly set up—the machinery that operates the monopoly.

Uniformity is always the first step of trustification. This makes sales and price regulations possible.

Immediately upon his arrival in our industry, Mr. Hays instituted a uniform exhibition contract, which every theatre owner must sign or he receives no pictures. The sellers in no other industry have such an advantage over the buyer. For 15 years our industry grew from a toy to a giant business without this uniform contract; it has no need except for trustification purposes.

This contract contains a compulsory arbitration clause that creates a super-government and forces the independent exhibitor to agree to give up the most sacred possession of all American privileges, his day in court. This contract contains about 9,000 words and is a complete system of government with its own laws, courts, and jurisdiction enforced by duress.

For convenience we will quote excerpts from this contract in paragraphs in italics:

Eighteenth. The parties hereto agree that before either of them shall report to any court to determine, enforce, or protect the legal rights of either hereunder, each shall submit to the board of arbitration.

No one may have pictures from the Hays association without submitting to enforced arbitration. This group controls 95 per cent of the choice pictures released. For six months we refused to buy except with the arbitration clause struck out, but were unsuccessful.

In the city herein situated the exchange of the distributor from which the exhibitor is served.

The exhibitor may not, as in a regular court, have his case tried in his own county, but must journey to one of the 23 offices and distributing centers of the producers. For example: Exhibitors living in Idaho must journey to the State of Washington to have their rights considered, etc., while the producers lose no time and have no expense. This alone makes the system unbearable for the small man.

All claims, and controversies arising hereunder for determination pursuant to the said rules of arbitration and the rules of procedure and practice adopted by such board of arbitration.

The Hays group makes their own rules and each film board seemingly is a law unto itself but always under the direction of the general counsel of the Hays organization. Their routine is conducted in unwritten meeting preceding each arbitration meeting.

The parties hereto further agree to abide by and forthwith comply with any decision and award of such board of arbitration in any such arbitration proceeding, and agree and consent that any such decision or award shall be enforceable in or by any court of competent jurisdiction pursuant to the laws of such jurisdiction now or hereafter in force; and each party hereto hereby waives the right of trial by jury upon any issue arising under this contract, and agrees to accept as conclusive the findings of fact made by any such board of

Pro

WILL H. HAYS—Continued

motion picture theatres as the United States. Therefore the product is sold and resold each week to nearly a quarter of a million consumers. Twenty-five thousand miles of film are handled each day in the exchanges of this country alone.

That is a gigantic enterprise and it has grown to what it is in the fraction of a man's life, without precedents and without charts.

The Buyer and Seller

The major problem in any industry is the relation between seller and buyer. This must be equitable, just and conducive to stability and mutual confidence. Then expansion will follow and prosperity remain.

I want you to visualize 20,233 motion picture theatres throughout the United States. Do not think of them in terms of the magnificent theatres in Detroit, with great organs and incomes and capital to match. This is a nation of great cities, but it is also a nation of small towns. Inter-communication has brought us truly together, and the national market for every industry is the whole geographical sweep of the forty-eight states.

In the many thousands of small cities and towns, men with small capital must contract in advance for each year's showing of feature pictures. The general nature of the product is told them by the salesmen of the competing companies. Prices and dates of exhibition, with many other technical but vital details, are agreed upon. Out of the 600 to 800 pictures offered him by twenty or thirty companies, the small theatre owner, like the large, selects the companies which best meets his needs as to price, variety of product and advertising co-operation. He agrees to buy certain groups of their productions and exhibit them at stated times for stated prices.

The whole machinery of the manufacture of this product, which reaches nearly a quarter of a billion ultimate consumers each week, depends on the good faith and stability of individual contracts with theatre owners.

Honest Differences

There are many legitimate reasons why a theatre owner may find his contract difficult of fulfillment or may honestly believe the distributor is not giving him 100 per cent service under its terms. With no way to winnow the just claims from the unjust, temptation on both sides to call the contracts broken long constituted a major source of instability.

Until 1922 the producer with ten million dollars' worth of orders on his books did not know whether they might result in five million or six million dollars' worth of completed transactions. With rare good luck, he might hope for seven million out of his promised ten.

Because of this uncertainty, two mutually destructive hardships grew in burden each year. The theatre owner had to post an advance, usually of twenty-five per cent, when he ordered his films. This hurt the small exhibitor, and hurt him badly. The producer, on his end, had to start manufacture of the year's product on this advance, and then had to borrow the rest of his needed capital from sources which charged him from twelve to fifteen per cent. Responsible banking sources hesitated to take the risks which threatened to make the production and sale of motion pictures permanently a wildcat operation.

More Than Ten Million Exhibitors A Year

When it is realized that the average motion picture theatre annually rents from distributors approximately 175 feature

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Con

FRANK J. REMBUSCH—Continued

arbitration, and consents to the introduction of such findings in evidence in any judicial proceeding.

This clause actuates so that the exhibitor is bound by the action of the arbitration court, even to his right in a court of proper justice and jurisdiction and, therefore, causes him to agree beforehand that the kangaroo court guided by Mr. Hays is a court of last resort. Their tribunal is more powerful than the Supreme Court of the United States.

In the event that the exhibitor shall fail or refuse to consent to submit to arbitration any claim of controversy arising under this—or abide by and forthwith comply with any decision or award of such board of arbitration upon any such claim or controversy so submitted, the distributor may, at its option, demand, for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the parties—in the event of the exhibitor's failure to pay such additional sum within seven days after demand the distributor may, by written notice to the exhibitor, suspend service hereunder until said sum shall be paid and/or terminate this contract.

This clause is enforced by all companies joining together in enforcing every decision of the arbitration court, so that in seven days, if the exhibitor does not comply with the award, all his pictures are withdrawn by all companies associated with Mr. Hays. They have agreements among themselves whereby if one company would fail to join the others that company must pay a penalty to the film board or its members. This surely is the quintessence of conspiracy.

Rule 1. Election of board of arbitration.

The board of arbitration shall consist of six persons, three of whom shall be members of the film board of trade (called distributors' representatives) and three of whom shall be proprietors or managers of theatres in the territory where the film board of trade is located (called exhibitors' representatives) provided, however, that in no event shall such exhibitors' representatives be managers of theatres owned or controlled by producers or distributors.

This is the machinery whereby the jury deciding our rights are 50 per cent against us to begin with, because they are all associated members of the Hays organization, hired by them, and must naturally, as much as possible, vote against our interest. The rest of the set-up is influenced by a political machinery, whereby one or two exhibitors in each of 23 distributing centers can easily follow up the program and formula of trustification. In addition to this, the hearing last week developed that there are engaged by the Hays monopoly, 2,500 salesmen who solicit a little over 5,000 independent accounts, a selling expense without precedent in any other industry. These managers and salesmen are the same as those who sit on the film boards and we claim that this great expense is not to sell as much as to keep play dates filled, to take the utmost advantage of every sale, to secure more in rentals than is just, to keep verbal information among salesmen so that the prices can be raised, to meet and arrange all film board cases before the hearing, to cause dissension and unrest and distrust between independent exhibitors, to intimidate, to confuse, and to finally surround and practically confiscate our every right and property of the unaffiliated independent exhibitor.

We only ask the privilege of our constitutional rights.

Another thought: We believe the motion picture is a great and important factor in its influence on American life and

Continued on next page

Pro

WILL H. HAYS—Continued

pictures and about 350 short subjects (news reels, comedies and novelties), it will be seen that the approximately twenty thousand theatres enter into contracts with distributors calling for 10,500,000 separate exhibitions of pictures every year. This enormous number of transactions is under written contract and the opportunities for disputes arising therefrom can be readily visualized. Every delivery of every picture in every theatre was a potential lawsuit. 1922, distributors and exhibitors alike were staggering under the actuality of 4,000 suits, with the indicator rising.

When the Winner Loses

These lawsuits were disastrous to the winner and the loser. A motion picture is one of the most perishable products on earth. Its value is at the highest pitch only for the few months immediately following the promotional activity which is so vital a part of our industry. A man who thought he had a prior right to a certain film in his territory had the recourse of suing if the distributor thought otherwise. No matter who won or lost the suit, the value of the picture in question would have faded out long before the award. Bad feelings, bad collections, drags of every kind on the progress of the industry made our situation intolerable.

We then worked out a system which we have steadily tried to improve. Our latest form of uniformed contract, agreed upon March 1, 1928, is better than the first, instituted in 1923. But, in the meantime, we have had four years experiment, with results that set a standard for us and for all men who do business together.

How Arbitration Works

Here is how arbitration works in the motion picture industry:

When the distributor and the theatre owner make their contract covering the leasing of any group of pictures, each party agrees in writing that any dispute as to the fulfillment of the contract, or as to interpretation of its terms, shall be submitted to a board of six men. This board is not constituted of men in some far-off center. Three of the members come from representatives of the distributors. They are men whose duties are constantly in the immediate territory. The other three members are theatre owners, also from the immediate territory. There are thirty-two of these arbitration boards, meeting at sufficiently frequent intervals, in the United States.

These six men in each locality know the technical terms, practices and difficulties inherent in the motion picture business. They know any special conditions which may obtain in the neighborhood where the dispute centers. They are most solemnly charged to sit, not as distributors and theatre owners, but as judges of fact and fairness in the individual cases submitted to them. They serve without pay. In the rare cases where they are unable to agree (about one-third of one per cent. of the total cases submitted) they either choose a seventh man themselves or now ask the American Arbitration Association, which is doing most distinguished service, to do so.

The Results of Four Years

An exhibitor or a distributor can submit any dispute to the arbitration board nearest to the theatre affected and secure an award within ten days or two weeks. The enforcement of the award is entirely by self-discipline within the industry. If the exhibitor refuses to abide by a decision after the full hearing according to the terms of the contract, he is again in the status he occupied before the arbitration was

Continued on next page

Con

FRANK J. REMBUSCH—Continued

should never come under the financial or political control of a few persons.

Three points we ask to be remembered:

First. The exhibition contract is uniformed and made compulsory by duress, namely, sign or you get no pictures.

Second. Contract must be mutual to be legal and arbitration not mutually agreed upon but forced by duress is illegal.

Third. A complex supergovernment is a dangerous experiment.

UNAFFILIATED THEATER OWNERS OF AMERICA



N order that there be no misunderstanding on the part of the committee as to the attitude of the various States relative to arbitration, the following representatives of the following States wish this statement to be made a party of the record:

We are in complete agreement with Mr. Pettijohn on the value of a system of arbitration for this or any other industry.

We are not satisfied, however, with the plan of arbitration as it is practiced in the motion-picture industry.

It is felt by all that a system that provides that in order to secure pictures (because of the fact that all of the major and many of the minor producers use the same form of contract providing for arbitration) an exhibitor must renounce his day in court and submit to arbitration, by a board consisting of six interested parties, does not in practice move toward the securing of equity and justice.

Under the present system the three distributor members of the board are under direct responsibility to protect the interests of the producers who are paying their salaries, and they are a part of a small group, all members of the film board of trade and passing on problems that directly involve their own exchanges sooner or later. Naturally they are very reluctant to render judgment that sooner or later will apply directly to themselves.

On the other hand, the three exhibitors are part of a large unwieldly and generally widely scattered group, with little in common and many times competitors. These exhibitor arbitrators are naturally reluctant to jeopardize their interests for another theater owner, particularly in view of the fact that they are opposing exchange men with whom they have film contracts pending or who are in a position to bring unreasonable pressure to bear on them in film purchases later on. Too, the exhibitor has no voice in the selection of the arbitrators except the right to challenge one.

We feel that the present methods of enforcing awards against exhibitors who do not desire to leave their disputes to arbitration are in practice too severe and amount to little more than, by agreement, cutting the exhibitor who so refuses off from film service and forcing him out of business because of the practice of distributor with whom he actually uncompleted contracts demanding as security a sum that may reach \$500 for each film contract he has with the distributor who is a party to the dispute and also every other distributor with whom he is doing business. This sum in total has run to from \$5,000 to \$10,000.

In practice this means he must submit to arbitration and abide by the decision or not get pictures.

Continued on next page

Pro

WILL H. HAYS—Continued

instituted i. e., he must pay up a substantial deposit to secure future deliveries of films. If the distributor refuses to abide by an award, he loses his standing in the Film Boards of Trade and the obvious advantages of arbitration. The system is that simple.

And look at the results!

In 1922, the year before arbitration began in virtually its present form, the industry had approximately 4,000 lawsuits over contracts.

In the four years of arbitration, the boards have disposed of 50,006 contractual disputes, involving \$11,200,298.94.

Reaping the Harvest

In 1927 alone, 14,346 cases, involving \$3,825,636.76, were amicably adjusted. Of the total number of claims filed by theatre owners against distributors, the theatre owners were upheld in fifty-two per cent. Of the total number of claims filed by distributors, only forty-one per cent were upheld. Only thirty-six cases required the seventh arbitrator. Nine court entries were made to enforce compliance with awards, and there were forty-three court entries of judgments under awards. Five cases only found their way into court before arbitration.

Here is another pertinent fact: Out of the 14,356 claims in 1927 disposed of, 4,671 were settled before the date of hearing and 2,368 were withdrawn. When two parties to a dispute know that men of their own acquaintance and profession, having a full background of existing conditions, will be their judge and jury, they examine their own presentations with a careful eye.

We had some difficulties, of course. We will continue to have some. Every now and then some man, who wanted an advantage and got a judgment instead, becomes vocal in the press. These cases make headlines, but they are hardly chips in the steadily flowing stream of success.—*Extracts, see 3, p. 322.*

Con

LEO BRECHER

Theater Owners' Chamber of Commerce, N. Y. C.

OW, as to this arbitration. It consists of three exhibitors, as has been stated, and three exchange men. The exhibitor in many cases does not know the three exhibitors who are to sit in judgment presumably hearing his side. In the case of the small-town exhibitor, who comes into the big city to have judgment passed upon him, he is simply informed, "These three men sitting on this side are exchange men, and these three sitting on this side are exhibitors." They may be exhibitors or not. This litigant has no way of knowing.

Now, let us illustrate the working of the arbitration board. If a man gives an exchange a bad check they bring him before an arbitration board.

But if they feel, nevertheless, that they are willing to take a chance on his credit, then he can go and trade and do business with them as usual. But this is not the fact. The fact is that they have a binding agreement among them that as soon as a man is declared a bad risk by this sort of arbitration board, every member of that organization, and that means practically 98 per cent of all available production, must impose a penalty against that exhibitor. They must; they have no choice in the matter.

Mr. Pettijohn stated that in 1926 there were 5,476 awards made. He did not state how many of these awards were actually tried before the board and how many of them were merely the result of defaults. It is likely that many of these defaults—I know that it is so with many of them—are due to two causes. One is the inconvenience of the exhibitor to journey to an exchange center, in many cases a couple of hundred miles; and in many cases that they do not consider the system fair. When you do not think you are getting a fair deal you do not care to go into court.

Now, that covers the points on the conspiracy and whether the Hays organization is a trust or association engaged in the business for proper purposes, and what are the film board of trade. I am not saying that the Hays organization is a trust. Frankly, I do not know what a trust is. I am merely submitting these facts for the committee to judge for itself.—*Extracts, see 1, p. 322.*

What the Hudson Bill Provides

Editor's Note—The Hudson Bill, H. R. 13686 was introduced in the House, May 11, 1928, and was referred to the Committee on Interstate and Foreign Commerce. No hearings have been held.



HE title of the Hudson bill declares that it is a bill "To protect the motion-picture industry against unfair trade practices and monopoly, to provide just settlement of complaints of unfair dealings, to provide for the manufacture of wholesome motion pictures at the sources of production, to create a Federal Motion Picture Commission, to define its powers, and for other purposes."

Section 1 gives definitions of the terms used in the bill.

Section 2 provides for the creation of a Federal Motion Picture Commission under the Department of the Interior as a division of the Bureau of Education, composed of the Commissioner of Education ex-officio, and six Commissioners, two of whom shall be women. These six commissioners are to be appointed by the Secretary of the Interior, who shall designate one as Chairman. The Secretary shall make these appointments from eighteen persons nominated to him by the Commissioner of Education.

These six commissioners are to be qualified by education, training and character for the duties of the office; at least two shall be lawyers, and at least two shall be experienced teachers with the knowledge of the psychology of youth and the laws and arts of dramatic expression; and at least one shall be a person with experience in the motion picture business as a member of a State or city official Board of Censors or Commission on Motion Pictures. One member may be appointed who has had experience as a producer, distributor and exhibitor, provided that either he or his organization has not been connected with the Motion Picture Producers and Distributors of America, Inc.

This section further provides that not more than four of these commissioners shall be members of the same political party and that all of them are to be free from political control or obligation and none of them shall be directly or indirectly financially interested in the motion picture industry. The Civil Service Commission, after examination and investigation, shall certify to the Secretary of the Interior that the persons chosen by him comply with these provisions before the Secretary shall appoint them. The Commissioners, except the Commissioner of Education, shall hold their office for life and during good behavior. Any commissioner may be removed from office by the President for neglect of duty, for acceptance of a bribe, malfeasance or violation of this section, after a hearing conducted by the Secretary of the Interior.

Section 3 fixes the salaries of the six commissioners at \$9,000 a year, except that of the chairman, who is to receive \$10,000. In order to qualify under the provisions of Section 2, these proposed commissioners must be experts.

This section also authorizes the commission to employ and fix the compensation of deputy commissioners and such other employees as it may find necessary.

Section 4 provides that the headquarters of the Commission shall be in Washington, but authorizes the Commission to establish offices or bureaus "wherever efficiency, economy or public interest may require."

Section 5 provides that the duties of the Commission shall be to "protect the motion picture industry from unfair trade practices and monopoly, to provide for the just settlement of trade complaints, to provide for the making of wholesome motion pictures at the source of production, and for the proper distribution and exhibition of non-theatrical as well as theatrical films."

Section 6 states that "the motion picture industry is hereby declared to be a public utility and forbids any dealer to engage in any discriminatory or unfair practice; to enter into any contract for sale, leasing, or licensing of films that limits his court rights or binds him to submit any claim or controversy to an arbitration board; to reissue an old picture under a new name; to increase the price of films or admissions to film theatres to any undue or unreasonable degree; forbids a distributor to sell films to an affiliated theatre without offering all competing theatres and non-theatrical accounts a chance to bid on the films in free and open competition; declares block booking illegal; and declares unlawful such practices as exclusive dealing contracts, contracts price fixing, price discrimination or manipulating or apportioning product with the effect of restraining commerce or creating a monopoly.

Section 7 provides that nothing in the Act shall be construed to prevent or interfere with the operation of the Sherman Law, the Clayton Act and the Interstate Commerce Act.

Section 8 makes Sections 5, 6, 8, 9 and 10 of the Federal Trade Commission Act applicable to the jurisdiction of the proposed Motion Picture Commission.

Section 9 takes away the powers of the Federal Trade Commission over Motion Pictures.

Sections 10, 11 and 12 provide for the filing and consideration of complaints under the Act.

Section 13 gives the Motion Picture Commission the power to fix rates and charges for films.

Section 14 covers methods of procedure of the proposed Commission.

Section 15 provides for a fine of \$500 for anyone connected with the motion picture industry who fails to obey an order of the Commission.

Section 16 provides for application to the United States district courts for an injunction or other mandatory process against those refusing to obey the orders of the proposed commission.

Section 17 applies to the proposed Motion Picture Commission certain laws applying to setting aside orders of the Interstate Commerce Commission.

Section 18 authorizes the proposed Motion Picture Commission to institute "a centralized, neutral and impartial distributing agency," under which the Commission "shall manage the business of renting and leasing all films in Interstate Commerce in such a manner as shall place all producers and all exhibitors on an equal basis of merit in the renting and securing for rental to all persons on an equitable basis."

Under this section the agency is empowered to recommend to the Commission a percentage basis of payment for the leasing of films; to classify the theatres of the country and fix the prices of films correspondingly, disregarding the length of pictures.

Section 19 requires that within 30 days after the passage of the Act every person connected with the motion picture industry, shall register with the Commission, including producers, distributors, directors, actors, artists, photographers, costumers, exhibitors, exchange agencies, commission merchants and dealers. One failing to register in violation of this section shall, after two weeks' notice, be liable to a fine of not more than \$500. All persons subject to the provisions of the Act may, in the discretion of the Commission, be called upon to file annual or special reports on the conduct of their business. Compliance with the orders of the Commission regarding the type of contracts he enters into in the conduct of his business is a condition precedent to the obtaining of a registry license by anyone engaged in the Motion Picture Industry.

Section 20 includes the trade practices provisions of the Federal Trade Commission Act in the powers of the proposed Motion Picture Commission.

Section 21 requires all motion picture dealers to keep complete records of all their transactions under a manner and form prescribed by the Commission and give the Commission access to them at all times. Failures to obey the provisions of this section makes a dealer liable to a fine of not more than \$5,000 or imprisonment for not more than three years, or both.

Sections 22 to 25, inclusive, deal with the censorship powers of the proposed commission, listing the subject matter to be forbidden. Under these provisions all theatrical films must be reviewed by the Commission or its representatives before being placed on the market. The Commission may issue permits for the distribution of scientific, religious, industrial or educational pictures without pre-review.

Section 26 provides that the Commission shall collect a fee of \$10 per thousand feet or fraction thereof and \$5 for

each additional copy thereof licensed by the Commission, provided that after six months after the approval of the Act the Commission may revise the fees so that they will produce no larger income than is necessary to support the work of the Commission, including salaries and other expenses and pay \$1,000,000 a year to be used by the Bureau of Education in co-operation with the several States, for the manufacture, distribution or exhibition of educational films or slides.

Section 27 provides for appeal to the Commission of applicants for licenses which have been denied by deputies.

Section 28 forbids the interstate transportation of any film not licensed by the Commission.

Section 29 provides that no unlicensed film shall be shown in the District of Columbia or any territory of the United States where the local police power is under Federal jurisdiction.

Section 30 declares it to be the duty of the Commission to supervise all posters, banners and other advertising matter used to advertise all motion pictures in commerce, except advertising matter used in daily newspapers and periodicals.

Section 31 states that "The Commission shall have the power to give a special mark of approval for such films as contain nothing which would be considered as unfit for or injurious to children or young people and shall place upon the label, as provided in Section 24 the words, 'For family use.'"

Section 32 fixes various penalties for disobedience to orders of the Commission.

Section 33 makes all employers responsible for the actions of their agents.

Section 34 authorizes the Commission to report violations to the Act to the Attorney General, who is required to institute proper proceedings against offenders in the proper courts.

Section 35 gives control of all Government films to the proposed Commission.

Sections 36 to 41 cover the administration methods to be employed by the Commission.

Miscellaneous Motion Picture Bills in Congress

In addition to the Brookhart and Hudson bills there are a number of measures pending in Congress which deal with the motion picture industry. Many of them cover the same ground as the Brookhart and Hudson bills.

Among those dealing with other phases of the question are bills to repeal the law prohibiting the shipment in interstate commerce of prize fight films; a resolution (S. Res. 245) by

Senator Thomas F. Walsh, (Mont. D.) for an investigation of the motion picture industry by the Senate committee on the judiciary; and a bill (H.R. 78) by Representative W. C. Lankford, (Ga. D.) providing for a Sunday law for the District of Columbia which would include the Sunday closing of motion picture houses. All these bills are in the Committees awaiting action.

Should the Government Control Motion Pictures?

Pro

HON. GRANT M. HUDSON

U. S. Representative, Michigan, Republican.

The first step toward the protection of the motion picture exhibitors and the public is, in my opinion, the creation of a responsible Governmental agency to control the industry in such a manner as to avoid the troubles toward which it is headed. Therefore, in my bill, I have provided for the creation of a Federal Motion Picture Commission of six members to be appointed by the Secretary of the Interior, with the Commissioner of Education as an ex-officio member; of the other five members two must be lawyers, in order that the Commission may at all times have the benefit of legal opinion; of the other three members, two must be experienced teachers in order that the educational value of the films may be built up and the fifth, one who has had experience in the dealing with motion picture problems as a motion picture producer, distributor or exhibitor or as an official of a state or city board of censors or commission on motion pictures. At least two members must be women.

This will give us a commission of practical men and women who will deal with the problems brought before them in a sane and practical manner.

One of the principal duties of the Commission will be, as I see it, to protect the industry from itself by breaking up the block booking and blind booking systems concerning which there is so much complaint from the independent exhibitors. The application of Government control is always fought bitterly by the men engaged in the business concerned, but it always produces good results in the end, and the leaders of the motion picture industry would do well to remember this.

It will be recalled that the railroads bitterly opposed the creation of the Interstate Commerce Commission and predicted that a body composed of lawyers and politicians who were not practical railroad men would soon ruin the railroad systems of the country.

I venture the assertion that if a Senator or Representative should introduce a bill in Congress to abolish the Interstate Commerce Commission today, every railroad official in the country would rush to Washington to oppose the bill. The Commission whose creation they once fought is now their best friend.

The present boards of arbitration set up by the leading powers of the motion picture industry are not adequate to solve the difficulties that arise. They are compulsory, and more or less one-sided and the exhibitor, by virtue of their set-up, has to relinquish his fundamental rights to go into the courts. Under the provisions of my bill he has recourse to the courts, if dissatisfied with the Commission's rulings without opening himself to attack as guilty of bad faith.

My bill declares the motion picture industry to be a public utility. This may seem like a new departure, but pictures have become so much a part of our scheme of things that I feel that they must be so considered. The bill makes provision for filing of complaints by the public just as such complaints may be filed with the Federal Trade Commission or the Interstate Commerce Commission.

With its power to set up a neutral distributing agency the Commission will be able to see that all exhibitors are treated fairly in the distribution of pictures, whether they belong to one of the big combinations or not. Under the supervision

Con

BURT NEW

Washington Representative, Motion Picture Producers and Distributors of America, Inc.

The provisions of the Hudson Bill go farther toward putting the federal government in complete operating charge of an American business than any other measure ever proposed in the Congress of the United States.

Nothing more opposed to the American doctrine of free play for initiative, courage and brain power could be imagined than that section of the bill which creates a central distributing agency, with absolute price-fixing power, under the sole control of the proposed government commission. There are 10,500,000 separate transactions in the domestic motion picture field each year. Under this bill, the price of rental in every one of these transactions would be fixed by a bureau of a commission of six life appointees, the principal qualifications for five of whom would be, under the law, *complete lack* of previous experience in the production, distribution and exhibition of motion pictures. Instead of motion pictures being sold in competition, as they are now, with the rewards going justly to those who advance farthest and fastest in the art, film would be sold as footage—not as a creative artistic entity—on a fixed percentage basis.

This provision is one of the most patent attempts in our governmental history to repeal the law of supply and demand by legislative action. No one, not even a government bureau, can tell in advance just how popular a given picture will be in a certain city. Even if this gigantic entry of the government into the motion picture industry through price-fixing were constitutional, what more unfortunate medium for the experiment could be found than a product which is at once a growing art and a major medium of expression?

The bill provides for a very long, complicated and contradictory procedure modeled after the Federal Trade Commission, the object of which is stated to be the prevention of "unfair practices" in the industry. This is pure surplusage. All branches of the industry met in New York during the week of October 10, 1927, and, under the chairmanship of a member of the Federal Trade Commission, agreed in detail on what shall be fair practice in the marketing of motion pictures. No one has charged a failure to live up to that agreement, and, if such failure should occur, there is ample authority, under existing law, to enforce the decisions of the conference.

Motion pictures are now marketed through a vast and complicated system of distribution, centering in thirty-two cities where Film Boards of Trade guard diligently the preservation of competitive selling and the rights of all parties concerned. Grouped in these centers are 546 film exchanges, employing more than 6,000 persons, engaged in the selling and delivery to theaters of motion pictures. The system is not perfect, but it has evolved in the stress of a decade of growth unparalleled in the experience of any other industry. It has been worked out, and improvements are being made constantly by men who have given their entire time and attention to the progress and development of this art and to the commercial problems attendant upon that progress and development. Surely the hope of eventual perfection, or approach to that idyllic state, lies in continued evolution under the hands of those who know the business.

What does the Hudson Bill do? It proposes to scrap with one devastating legislative blow the entire fabric of this

Pro

HON. GRANT M. HUDSON—Continued

of the distributing agency a more stable level of prices will be maintained and the producers and exhibitors, as well as the public, will be fully protected.

Dealers of all sorts will be required to register. No man in any business who is conducting his affairs in an open and above board manner has any objection to registration. This applies to trade associations within the industry, also. If these associations are designed to be helpful to the industry they need have no objection to giving the Commission full information concerning their activities.

As far as censorship provisions of the bill are concerned, I can only say that my observation of the movies has been such that the producers should be glad to have a body of men and women of education to overlook their films.

The bill provides that a fee of \$10 per 1,000 feet of film and \$5 for each additional copy thereof shall be used for defraying the expenses of the Commission and \$1,000,000 per year shall go to the Bureau of Education to be used in the development of education by films. The remainder is to be turned into the Treasury of the United States. This provision, I feel, will add greatly to the development of educational motion pictures.

The object sought to be obtained by my bill for Federal Supervision of the Motion Picture Industry may briefly be summarized as follows:

1. To protect the exhibitors from the unjust practices of the producers and distributors such as blind and block booking and the unfair leasing of pictures; from forcing the exhibitor, in order to get any desirable pictures, to sign the uniform standard contract whereby he must promise not to go to the courts to settle any wrong done him; from the producer ownership of theatres; and from using the exclusive contract in such a way as to destroy competition in the rental of pictures.

2. In a constructive manner this bill is drawn to develop all the branches of the industry to their largest and highest capacity and to maintain a fair, broad and open field of endeavor in every branch.

3. To secure at the source of production without censorship or any compulsory system of pre-examination of films before exhibition, conformity to the moral standards which were drawn up by the industry in 1921, and which they then promised to put into effect.

4. Thus to assist parents to protect their children from the exploiters of youth in such a manner as to increase the amusement value of the films and the financial profits of the business.

5. To promote America's foreign business in all branches of trade by removing the principal reasons why France and other nations object to American films. Otherwise other nations like Russia may adopt government ownership of films, may limit their importations as Great Britain and France have recently done, or may exclude them altogether.

6. To regulate the political activities of the industry.

7. To place the settlement of trade disputes and the supervision of the industry in the hands of the Federal Commission, nonpartisan and beyond unfair political influence, a commission which will devote its whole work to the motion picture industry only.

8. To inaugurate the use of teaching films in the schools of the United States by providing one million dollars to the Federal Bureau of Education for that purpose.

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BURT NEW—Continued

machinery and to substitute an arbitrary power, concentrated in the hands of six life-time appointees. The members of all other important commissions in our federal government are appointed by the President, by and with the advice and consent of the Senate, but this new and most powerful commission will be appointed entirely by the Secretary of the Interior, and no removal can be effected except through impeachment.

Anyone conversant with the necessities in regard to conducting the intricate selling and distribution of 10,500,000 shipments of motion picture subjects each year can realize that the myriad functions allocated the proposed federal commission will call for eventual appointment of from 3,000 to 5,000 government employees to "regulate" the motion picture industry. There is no limitation in the bill of the commission's appointive power in regard to subordinate jobs, and the duties and responsibilities of the parent body will inevitably lead to the enrollment of a veritable army. Branch offices, bureaus, inspecting units, anything the commission sees fit to set up in the way of administrative machinery, may be created at will and without check.

How will this new and burdensome machinery be financed? There is the real master-stroke in the bill. The commission members will never have to go before the Congress to ask appropriations. They will never have to account to the Congress or the Budget Committee for the expenditure of the millions they will handle. The whole cost, which begins at about \$7,000,000 yearly, and may be increased at will, is to be charged against the motion picture industry, presumably by inclusion in the prices charged to exhibitors. This, of course, puts the ax squarely on the neck of the theater-going public. They will pay the bill, through inevitable economic law, and they will have no way, once this super-government of a vital American industry is in existence, to control the amount of the tax.

In addition to the tax for the operation of the commission's machinery, prices are to be set at such a figure as will permit the payment of \$1,000,000 a year to the Bureau of Education for the promotion of "visual education." This, too, will be expended without any check from any department of the government except the proposed Motion Picture Commission. All government-made films of every kind will also be made solely under the authority of the commission. Here, I submit, is a proposal of the greatest agency for governmental propaganda that has ever been seriously suggested in the United States.

It is no shock, after reading the rest of the bill, to find that its final clauses provide for federal censorship. The constitutional provision for freedom of speech would inevitably have named the motion picture if the medium of expression had existed at that time. Sound pictures will bring the industry squarely under the free speech protection. Yet here is a proposal to throttle the screen permanently and fatally as a means for the transmission of ideas and ideals.

In only one State of the Union have the voters themselves ever had opportunity to state their views on censorship of motion pictures. That was in staid and level-headed Massachusetts, a commonwealth historically rich in the preservation of the best in American tradition. Her voters, in 1922, rejected a proposed motion picture censorship bill by a majority in excess of 344,000.

Pictures are clean. They will stay clean, because of the earnest desire and effort of the industry to keep them clean,

Continued on page 323

A Glossary of Motion Picture Terms

By Frank J. Willatch

Author and Motion Picture Critic

- A Bust*: When a picture does not draw.
- A Chaney*: A freak make-up.
- A Frame*: Each individual photograph in a strip of film.
- A Lot of Hay-Wire*: Flimsy; unsubstantial.
- A Natural*: Success without ballyhoo.
- A Seat Filler*: A motion picture salesman's expression for a good picture.
- A Shooting Gallery House*: A theatre playing westerns, action pictures, and inexpensive product.
- A Trailer*: A few hundred feet of film announcing a forthcoming picture.
- America's Sweetheart*: Mary Pickford.
- Amplifier*: The electrical apparatus similar to that in modern radio sets, which magnifies the human voice during the recording or reproducing process.
- Art*: Means photographs of the star, her home, her dog, or other item.
- B. O. A.*: Box office attraction. Any popular and profitable picture.
- Baby Spot*: A small type of spotlight.
- Bank*: Lights grouped.
- Black Lighting*: Banking of lights to produce an aura.
- Block Booking*: The renting of pictures in quantity.
- Bloops*: A voice with echoing quality.
- Bombom*: A light that is shaped something like the old baby spots.
- Brains*: A phrase used sometimes derisively for the scenarist.
- Break Its Neck*: The hanging of white silk sheets in front of lights in order to diffuse the lights.
- Breakaway*: Furniture of scenery that comes apart for comedy uses.
- Broad*: Large light throwing broadside beam.
- Broads*: Side arcs.
- Burning One*: To throw extra strong lights on one in photographing.
- Camera*: Direction of cameraman to start turning his camera.
- Casaba*: A one stand light, that looks like an egg bisected laterally.
- Central*: Central casting bureau.
- Charley*: A fellow with a mustache.
- Cheat the Chair*: Means that the property man is to shove the chair backwards and forwards, slightly.
- Clinch*: Final love scene in a picture.
- Coffee Grinder*: The camera.
- Close-up*: When the face of a person fills the entire eye of the camera.
- Coming Through*: Warning given by workmen who are carrying any heavy article through a crowd.
- Comma Hound*: Editor of titles.
- Continuity*: The action in a series of scenes for the guidance of the director.
- Cook the Opera*: Preparing story for moving picture production.
- Cook's Tours*: Visitors in a studio.
- Corduroy*: One whose voice wavers,—now high, now low.
- Cover-Cut*: Necessary to explain happening not pictured.
- Crack the Sun*: Means to light a sun arc.
- Cut*: Command of director to camera to stop grinding.
- Cut-Back*: A flash back to something already shown.
- Cutouts*: Scenes removed from film while cutting.
- Dead Pan*: Playing a role with expressionless face, as, for instance, the work of Buster Keaton.
- Decorate*: Instructions to electricians to take their places at the various lights.
- Detective*: Efficiency expert of assistant to production manager checking up on waste, etc.
- Disc*: The wax record on which voice and sound effects are recorded.
- Ditch*: To throw away.
- Doing a Keystone*: A comedy chase.
- Double-Exposure*: Double printing on a film, for the purpose of double role or vision.
- Doug-Bagdad Business*: Oriental scenes and action after the manner of Douglas Fairbanks' "The Thief of Bagdad."
- Editing*: Throwing away more film than was needed in the first place.
- Fade-in*: From darkness through gradual increase of light to full lighting.
- Fade-out*: From full lighting through gradual diminution of light to darkness.
- False Fronts*: Facades of houses as backgrounds and as constructed to represent buildings or streets of foreign cities.
- Fan Mail*: Letters to players from picture fans.
- Fausty*: After the manner of the opera "Faust" in scenes, costumes, characters or magically renewed youth.
- Feed the Broads*: Means that the carbons are to be reset by opening and closing the control switch.
- Finger-Wringer*: An actress given to emoting.
- Flag*: To stop.
- Flash Titles*: Also temporary form of titles for cutting, used merely to mark places in films where titles belong.
- Foreground Hound*: Extra who always is trying to get in front of camera.
- Frequency*: An electrical term denoting the sound-wave characteristics and range of the amplification system.
- Gag Man*: One who provides laughter-provoking situations in comedies.
- Galloping Celluloids*: Motion picture film.
- Get the Axe in the Loways*: To be banned by rural moralists.
- Get Your Iron*: Means that the light crew is to line up the sets.
- Ghost Window*: Cashier's window where pay checks are issued.
- Gimmick*: The old square reflector arcs.
- Glass-Cheater-Work*: Glass painted screen attachment for cameras, to fake impressive distant backgrounds, such as mountains, rivers, distant cities, castles.
- Grab a Flop*: Take a seat.
- Grease-Pusher*: A make-up man.
- Grip*: Men who do the heavy work on the set.
- Groan Box*: Portable organ on a picture set.
- Growler*: One who accents the gutters.
- Hard Light*: Electric arc lights.
- Hawbuck Harness*: Medieval court costumes for men.
- His Tempo is Bad*: A phrase used about any one off color, in any way.

Hit 'Em: Director's signal meaning "Turn on the lights."

Hit the Baby: Means that baby spot light should be lit.

Hit the Deck: Means it is lunch hour.

Hit the Domes: Means to light the overhead arcs.

Hit Your Spot: Direction to the electrician to light his spot light.

Hokum: Any situation or "business" that, through repetition, has been found sure-fire.

Hold Your Hammers: Means that carpenters in the immediate vicinity should observe quiet; that a director is ready to shoot a scene.

Hook on That Pig: Means a short plugging box is to be placed on the line.

Horse Opera: A Western cowboy picture.

Hot Points: Warning by camera man to be aware of the tripod, when carrying it.

In the Air: State of indecision.

In the Black: Showing a profit.

In the Red: Showing a loss.

Indies: Independent producers of pictures.

Interlock: A word indicating that the cameras and the voice recording apparatus are in perfect synchronization.

Iris In: To open the diaphragm of a camera gradually until the full frame is exposed.

Iris Out: The opposite operation of iris in.

Juice Sucker: One of naturally low voice which must be amplified by the electrical controls.

Juicers: Electricians.

Kill 'Em: Lights out.

Kill the Baby: Means put out spot light.

Kleig Eyes: Eyes injured by the lights.

Lamp Post: Any expensive piece of jewelry.

Lap Dissolve: The overlapping of one piece of action on another; double exposure or double printing on the same strip of film.

Lapsi-Lal: A hanging dome light, with several clusters around the inner side.

Leaping Tintypes: Motion pictures in general.

Lens Hound: Actor who always tries to "hog the scene."

Light 'Em: Order by head electrician to turn on all lights used in a set—such as kleigs, spots, suns, floods, etc.

Light-Shot: A term applied to developed film that shows a streak of light either from leak in camera or printer.

Location: Any place outside a studio where a company is working.

Made it on the Cuff: Picture made without a continuity, or pre-arranged story.

Make a Still: Command to make a single photograph of a scene. Photographs of a motion picture scene used in magazines, newspapers, etc., are stills.

Make Him Sweat: Command to props to spray player with glycerine.

Menace: The villain; acute or persistent peril, or constant obstacle that hero or heroine has to fight against.

Mike: The commonly used abbreviation for microphone, of which from four to a dozen are used in recording talking pictures.

Miniature: A set built to scale and magnified by the camera to natural proportions.

Mixer: The engineer and his equipment, designed to maintain a proper volume of sound during the recording process.

Monitor: The engineer on the set where the talking picture is filmed. He is in constant telephonic communication with the mixing panel, recording room, and amplifying room.

Motivation: Assigning causes for action.

Oak: O.K.

Opera: A moving picture, story or play.

Overfootage: Too long.

Over Head: A studio employe who apparently doesn't do anything to earn his money.

Overnight Star: A sensational discovery of a star who has not been previously working in pictures.

Pan: Turning camera slowly to follow action right to left or left to right. (Panorama.)

Photo-Electric Cell: The small, sensitive vacuum tube which transforms the voice into black and white light-lines of varying intensities on the sound-film.

Pipe Down: To hush up; otherwise, to lay off.

Pirates: Film salesmen.

Play-Back: A disc, similar to a phonograph record, upon which the voice is recorded simultaneously with the film recording. This record is made solely to permit the director and actors to hear the scene after it has been made and thus check for errors.

Poverty Row: Small independent studios where pictures are made.

Props: Nickname of property boy.

Quickies: Pictures made in "Poverty Row."

Red Apple: Flattery for director or producer.

Real McCoy: The very best.

Reissue: To bring out a film after it has been off the market for some time.

Reverse Cranking: Turning the crank in the opposite direction to secure the effect of action going backward.

Rheostat Voice: A player with a voice which must be toned down.

Running a Grind: Running a picture theatre from 10 A. M. until 11 P. M. with no intermissions.

Rushes: The product of each day's shooting.

Save 'Em: To turn off the lights; save the current.

Scene: Every change of camera shot in a picture, whether location changes or not.

Schmoos: To smooth over or calm an angry person.

Scoop: A side arc with a scoop-shade opening.

Scratches: Temporary titles, usually typewritten and photographed with print while cutting.

Screeching Celluloid: The talking picture.

Sequence: Subdivision of film story showing a continuous episode, without necessity of time lapse title or break in action. Usually preceded and followed by a fade.

Shake 'Em All: Direction of chief electrician to turn on and off the power, in order to shake the carbons and arcs.

Silk: A square of white silk framed in wood, used to hang over lights to diffuse them.

Simon Legree: Director or assistant who overworks his cast.

Sizzler: A player who generates the "S" sound through the teeth.

Slate: The board carrying scene number, photographed at the end or beginning of scene so that it can be identified in positive print.

Slow Motion: Retarded action gained by turning the camera quickly.

Snow: Free admissions.

Soft Lights: Mercury vapor lights.

Sound-Proof: A stage or building sealed against the entry of outside noises; absolutely essential for perfect results in talking films.

Spot 'Em: Request to focus lights upon a certain spot.

Stand-in-Men: Substitute for the star used by the director while cameramen and electricians are testing the lights.

Still: A photograph as distinguished from a moving picture.

Still Man: A photographer of "still" pictures.

Continued on page 321

EXECUTIVE DEPARTMENT

The White House Calendar

September 20 to October 20

Addresses

October 10—Address of President Coolidge before the General Convention of the Episcopal Church, Washington, D. C.

October 19—Address of President Coolidge dedicating the Fredericksburg and Spotsylvania County Battle Fields Memorial, at Fredericksburg.

October 20—Address of President Coolidge on the occasion of the presentation of a medal granted by the Congress of the United States to Thomas A. Edison at Washington, D. C.

Executive Orders

September 29—An executive order conferring upon the Secretary of State jurisdiction to authorize and regulate the operation of commercial aircraft between the Canal Zone and a foreign country.

September 29—An executive order creating Tulsa, Oklahoma, a port of customs entry.

Proclamations

September 29—A proclamation adding certain public lands to the Eldorado National Forest, California.

September 29—A proclamation authorizing the Railroad Board to investigate dispute between certain Western Carriers and their employees.

October 17—A proclamation increasing the duty on Fluorspar from \$5.60 to \$8.40 a pound.

Important Civilian Appointments

September 26—Howard C. Arnold, to be U. S. Marshal, for the District of Rhode Island.

October 3—Wayne G. Borah, to be U. S. District Judge, for the District of Louisiana.

October 6—James W. McCarthy, to be U. S. District Judge, for the District of New Jersey.

October 6—Phillip Forman, to be U. S. Attorney, for the District of New Jersey.

October 17—John Walter Cross, to be a member of the Fine Arts Commission.

JUDICIAL DEPARTMENT

The Month in the Supreme Court

October 1 to October 22

On October 1, 1928, the Supreme Court of the United States met for the opening of the October term. All the members of the Court were in attendance. The session was given over to the granting of motions to dismiss petitions for writs of certiorari and writs of error and to the hearing of the submission of petitions for writs of certiorari, after which adjournment was taken until October 8.

Chief Justice Taft announced that sessions would be held the remainder of the week and that the time would be given over to conferences for the consideration of writs of certiorari. On October 8, the Court met and disposed of 87 petitions for writs of certiorari, denying 75 and granting 12, and dismissed 3 cases. On October 15, the Court disposed of 95 petitions for writs of certiorari, denying 77 and granting 15, and dismissed 7 cases. An opinion in only one case was handed down.

On October 22, the Court disposed of 90 petitions for writs of certiorari, denying 80 and granting 10. Three cases were decided, an opinion being handed down in one (see below). Chief Justice Taft announced that the Court would recess from October 29 until November 19.

The Case—No. 27, Anna Marie Maney, petitioner, vs. The United States. On writ of certiorari to the Circuit Court of Appeals for the Seventh District.

The Decision—The order of the Circuit Court of Appeals was affirmed, the Supreme Court holding that the filing of a certificate of arrival of an alien with his petition for nat-

uralization was a condition precedent to the power of the Naturalization Court to grant a certificate of citizenship.

The Opinion—Mr. Justice Holmes delivered the opinion of the Court on October 22, 1928, which is, in full, as follows:

"The petitioner obtained a certificate of naturalization by a decree of a District Court of the United States in February, 1924. In June, 1925, the United States filed a petition to have the certificate cancelled on the ground that it was illegally procured. The District Court dismissed the Government's suit. But this decision was reversed by the Circuit Court of Appeals and an order cancelling the certificate of naturalization was directed. A writ of certiorari was granted by this Court on the 9th day of January.

"The petition for naturalization was filed on November 13, 1923, but at that time there was not filed the certificate from the Department of Labor stating the date, place, and manner of arrival in the United States, and the declaration of intention of such petitioner, which the Naturalization Act of June 29, 1906, c. 3592, section 4, 34 Stat. 596 (Code, Title 8, section 380), required to be attached to and make part of the petition. It is said that the Department of Labor did not issue the certificate until November 24, 1923, and it was not mailed to the clerk of the Naturalization Court until December 3.

The hearing on naturalization took place on February 11, 1924, and the District Court, against the objection of the United States, ordered the certificate filed and attached to the petition *nunc pro tunc*, as of the date when the petition was filed, and made the decree purporting to admit the petitioner to citizenship that has been annulled in the present proceedings. The petitioner says that the original decree made the question *res judicata*, and that it was right, or at least within the power of the Court.

"By section 15 of the Naturalization Act (C., section 405), it is made the duty of district attorneys upon affidavit showing good cause therefor to institute proceedings for cancellation "on the ground that the certificate was illegally procured." The first question is whether the certificate was illegally procured within the meaning of section 15. If the statute makes it a condition precedent to the authority of the Court to grant a petition for naturalization that the Department of Labor's certificate of arrival shall be filed at the same time, then, when it appears on the face of the record that no such certificate has been filed, a decree admitting to citizenship is bad. It is illegal in the sense that it is unauthorized by and contrary to the law. *United States v. Ginsberg*, 234 U. S. 472, 475. *United States v. Ness*, 245 U. S. 319, 324, 325.

"We are of opinion that the Circuit Court of Appeals was right in holding that the filing with the petition of the certificate of arrival was a condition attached to the power of the Court. Although the proceedings for admissions are judicial, *Tutun v. United States*, 270 U. S. 368, they are not for the usual purpose of vindicating an existing right but for the purpose of getting granted to an alien rights that do not yet exist. Hence, not only the conditions at-

tached to the grant, but those attached to the power of the instrument used by the United States to make the grant must be complied with strictly, as in other instances of Government gifts.

"By Section 4 of the Act an alien may be admitted to become a citizen of the United States in the manner prescribed, "And not otherwise." And by the same section the certificate from the Department of Labor is to be filed "at the time of filing the petition." The form provided by Section 27 (C. Section 409) alleges that the certificate is attached to and made a part of the petition. The regulations of the Secretary of Labor embodied our interpretation of the law, and would have warned the petitioner if she had consulted them. *Rule 5*, Ed. February 15, 1917; Ed. September 24, 1920; *United States v. Ness*, 245 U. S. 319, 323. It already has been decided that the filing of the certificate is an essential prerequisite to a valid order of naturalization, *United States v. Ness*, *sup.*, and that a hearing in chambers adjoining the courtroom does not satisfy the requirement of a hearing in open Court. The reasoning that prevailed in those cases must govern this.

"A hearing in less than ninety days from the public notice required by Section 6 (Code, Section 396) surely would have been as bad as a hearing in chambers. But as it has been decided that no valid decree could be made until the certificate was filed and as the hearing took place and the decree was entered in less than ninety days from the time when the certificate was received the want of power seems to us doubly plain. If after the certificate came the petition had been refiled, a new notice had been given and ninety days had been allowed to elapse before the hearing there would be a different case.

"It is said that the District Court had control or procedural matters and could cure formal defects. Very likely it had power to cure defective allegations but it had not power to supply facts. If, as we decide, the petitioner was required to file the Department of Labor's certificate at the same time that she filed her petition, the District Court could not cure her failure to do so and enlarge its own powers by embodying in an order a fiction that the certificate was filed in time.

"As the certificate of citizenship was illegally obtained the express words of Section 15 authorize this proceeding to have it cancelled. The judgment attached did not make the matter *res judicata*, as against the statutory provision for review. The difference between this and ordinary cases already has been pointed out and would be enough to warrant a special treatment. But it hardly can be called special treatment to say that a record that discloses on its face that the judgment transcends the power of the judge may be declared void in the interest of the sovereign who gave to the judge whatever power he had."

Our Foreign Trade in Motion Pictures

Continued from page 297

country in which they were produced. There is no evidence furthermore, that this total will be exceeded in 1928.

Latin American Trade Growing

American motion pictures command about 90 per cent of the showings in Latin America and the majority of them are distributed through the branch offices of American firms operating in at least the larger territories. Occasionally films from Europe are given some distribution by independent distributors, but they cannot be said to compete with the American product to any degree.

While there are no accurate statistics at hand on the number of separate feature subjects sent to Latin America, it is understood that there are approximately 700 subjects used yearly in this market.

Movie Houses As Social Centers

As close a check as is possible indicates about 3,595 theatres in all of Latin America. Most of these are antiquated and out of date, but it is significant that there are, relatively speaking, as many modern theaters in the commercial centers of such countries as Argentina and Brazil as may be found anywhere. Theatre building in Latin America is proceeding rapidly and good houses are going up everywhere.

The theatre plays an important part in the social life of the average Latin American. He likes to be amused without the necessity of any effort on his part. There are many holidays in all South American countries and Sunday is also looked upon as a day to be devoted to amusements. The lack of good roads prevents the general use of automobiles as a means of amusement and there are few other forms of general entertainment.

It is but a natural thing for the Latin American to turn to the motion-picture theatres for his amusement, even in the summer time. On holidays and Sundays all the theatres are filled at almost every performance, of which there are an extra number. Few theatres in South America are operated on the American plan of a continuous show from opening time to closing. The usual custom is to have three shows on week days the first beginning 5:15 P. M., the second 7:15, the last at 9:15. A different film is shown at each show, the most important one being shown at the last session. On Sundays and holidays there are shows at 11:15 in the morning and another at 3:15 in the afternoon.

"Who's Who and Who's There"

The double-feature program exists in a majority of the countries and lights are flashed on between reels in order that the people in the auditorium may see who's who and who's there. During every other interval, advertising slides are shown. These interruptions afford the management an opportunity to gain or lose time. If the picture is long he cuts his intermissions short or neglects them altogether, though in the latter case the audience rarely fails to stamp or howl its displeasure, especially on "social" days, when one goes to the movies because it is the thing to do. Correspondingly, if the picture is short, intermissions are lengthened.

Amusement taxes in Latin-America are generally moderate as compared with those existing in Europe. However, in some instances heavy taxation does act as an obstacle to the development of the theatre business, such as the heavy taxation that was imposed on the theatre owners in Guatemala, necessitating the closing down of all the motion-picture houses in Guatemala City from January 16, 1928, to February 2, 1928, as a protest to the Government.

No Latin American Villains

Censorship of motion pictures in Latin America, while not very strict, is enforced very rigidly on one point at least. If any American picture uses a Latin American type as the villain it is in for trouble throughout all Latin America. In fact, several years ago the product of several American film companies was banned in Mexico for the indiscriminate use of Mexican villains. Producers have been more careful recently in this regard and have tried to conform with the very natural prejudices of Latin-Americans in this direction.

The Far East

The Far East is steadily rising as an important market for American motion pictures. Australia has long been one of our best motion-picture customers, and not only here, but elsewhere American pictures are becoming increasingly popular, indeed, with the single exception of Japan, films from the United States occupy nearly 90 per cent of the total screen showings in this section of the world.

While there is not much production in the Far East as a whole, Japan, nevertheless, is the only country in the world—with the possible exception of Germany—where the domestic product commands a majority of the showings. Japan in 1927 filled nearly 75 per cent of its films requirements with Japanese-produced pictures and while these are constructed as to plot, themes and methods in a manner which make them unsuitable for world-wide distribution, a few Japanese films were shown in China, Siam and other adjacent territories. A few films for Indian consumption are produced yearly in India, while China boasts a number of producing concerns. With respect to these latter a bulletin compiled last year in the Motion Picture Section described in general connection with the Chinese motion picture market a number of Chinese productions. Australia finally is seeking hard to create a native film industry. There are now several motion picture concerns organized in that country and three or four features were put out last year. One of these, "For the Term of His Natural Life," received quite extensive showings and was recently taken to England for distribution.

Agitation Against American Films

There is considerable agitation against American films in certain sections of the Far East. In Australia a commission was created to hold hearings to investigate the motion picture situation there, and out of it may come some sort of legislation that will curtail in some way the imports of American motion pictures. New Zealand has already introduced a Bill which in some respects is almost a duplicate of the recent English Quota Bill passed in the mother country. In India also a Commission was created to investigate the industry. This Commission has now presented its report and a number of recommendations have been made for more adequate censorship. This same feeling has also appeared in the Netherlands East Indies. The idea is not that films in themselves are immoral or unfit for showing, but that films which can safely be shown to European audiences exercise a far different effect on primitive and subject races.

Australians World's Greatest Movie Fans

There are in the neighborhood of 3,500 theatres throughout the Far East. Australia leads the way with 1,300, and most of these are as up to date as in the United States, for Australians are keen film fans and show a greater per capita

attendance at pictures than any country in the world—our own included. Indeed, a recent analysis by one of the large distributing companies in this country showed that for every dollar spent in the United States on movie admissions, Australians spent \$1.14. Japan has about 900 theatres, a few of these in such centers as Tokyo, Osaka and Kobe being as modern as may be found anywhere. New Zealand boasts of about 500 theatres—nearly all of them comparable to our own theatres and India has about 400, followed by the Philippine Islands and Netherlands East Indies with 250 and 200, respectively. It is an interesting comparison to note that China with a larger area and over three times the population of the United States has less than 125 movie houses in the whole country. The great poverty of the Chinese masses is largely responsible for this, as are also disturbed political conditions and a lack of transportation facilities.

Four-Language Titles in Egypt

Our film survey of the world would scarcely be complete without some mention of Africa and the Near East—this

latter region, including particularly Syria, Palestine and Arabia. American pictures are, of course, shown in all these regions, but except for South Africa the gross revenues do not amount to a great deal. Egypt, where film captions have to be shown in four languages, is perhaps the best market next to South Africa, but there are not more than 50 movie houses throughout its whole extent. South Africa, on the other hand, takes its place among the other British dominions as an excellent market for American films. It is largely in control of African Films, Ltd., which is said to own and operate over three-fourths of the 400 South African theatres. This company is likewise the largest, in fact, almost the sole distributor of films in that territory, and furthermore, is considering going into production. This latter move would necessarily be done on a small scale and would not reach the height of real competition. There is a certain amount of agitation against American films in South Africa with hints of a possible quota decree modelled on English lines. There is no evidence as yet that this will be seriously considered.

A GLOSSARY OF MOTION PICTURE TERMS

Continued from page 317

Synchrony: The process of keeping the recording apparatus in step with the cameras, so that a player's words will be heard in the theatre the same instant he is seen to utter them on the screen.

Taking it Big: Registering active reaction to a title situation.

Talkers: Movietone, Vitagraph, etc.

Tank: A sound-proof booth with a plate-glass window in front, designed to keep the noise of the camera's mechanism from being picked up by the microphones on the "set." Both camera and cameraman work inside the tank.

Temps: Temporary titles.

The Lot: Denotes the studio and stages of any company's activities.

The Nut: Theatre operating expense.

This is the Picture: A warning phrase used by Ernst Lubitsch to the players, meaning that rehearsal is over and the scene is about to be shot.

Throwaways: Scenes entirely discarded as worthless after cutting.

Tie on the Spiders: Means to connect certain electrical cables.

Tilt: Turning camera to follow action down or up.

To Mug: To make exaggerated faces in close-ups; to overact.

To Pan: To move the camera in a semi-circle and take a panorama of the scene.

Too Hot: Meaning the lights are too strong and need diffusing.

Top the Laugh: Action or title that reasonably concludes interpolated funny gag.

Tormentor: A large portable wall draped with special material to prevent echo and resonance on the sound "set."

Trailer: Short shots of a coming attraction.

Traveling Photographs: Motion-picture film.

Twins: Double arc lamps used in lighting sets.

Twist: A flapper.

Twist It: Turn camera crank.

Two-Syllable Words: Film, for example.

Under Footage: Too short.

Walrus: Make-up with big mustache, as per Chester Conklin.

Water Stuff: Sea action on any scenes in which actor gets wet.

Westerners: Cowboy pictures.

Wheezex: An organist on set.

Wide Angle: A lens so ground that it takes a wide range horizontally.

Wise Crack: Generally a comparison title; humorous, ironical.

Wrinkle: Mother of a movie star.

Uncle Sam's Book Shelf

Editor's Note—This department of THE CONGRESSIONAL DIGEST was established as a special aid to librarians and students. It resulted in a steady demand on the Government Printing Office for many documents and on July 1, 1928, the Government Printing Office inaugurated the publication of a weekly list of the available publications.

Having done the pioneering work in this field, THE CONGRESSIONAL DIGEST feels that it has placed its many readers in direct contact with the Government Printing Office and consequently may use the space occupied by this department for other helpful features.

Therefore "Uncle Sam's Bookshelf" will be discontinued. Those of our readers who wish to obtain the Government's weekly list of publications may write to the Superintendent of Documents, Government Printing Office, Washington, D. C. Their names will be placed on the mailing list and they will receive the weekly list free of charge.

Should the Government Control Motion Pictures?

Con

Continued from page 315

BERT NEW

and because the American public would not support an industry whose conduct was opposed to the welfare of our citizenry.

No single so-called "evil" of the motion picture industry which the Hudson Bill purports to remedy fails to come directly under the province of some already existing, duly

created government agency. The bill is totally unnecessary. In its revolutionary introduction of bureaucracy on a gigantic scale it would grievously injure the motion picture industry but, greater in import than that, it would destroy the American tradition and practice of free growth and development in the nation's business, intellectual and artistic life.

Sources from which Material in this Number is Taken

Articles for which no source is given have been specially prepared for this number of THE CONGRESSIONAL DIGEST.

1—Hearings Senate Committee on Interstate Commerce, February 27-March 2, 1928.

Charles C. Pettijohn.

2—Memorandum on Brookhart Motion Picture Bill, by

3—Arbitration in Industry, an address by Will H. Hays before the Detroit Board of Commerce.

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